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Report 423

**Review of Auditor-General's Reports Nos 39 2009-10 to
15 2010-11**

Joint Committee of Public Accounts and Audit

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Foreword

The Joint Committee of Public Accounts and Audit, as prescribed by the *Public Accounts and Audit Committee Act 1951* examines all of the reports of the Auditor-General tabled in the Parliament. This report details the findings of the Committee's examination of the audit reports tabled between May and November 2010.

The Committee examined five reports in detail, covering a range of agencies and identified a number of areas for improvement in administration including in the decision making processes regarding infrastructure projects, the transparency and accessibility of regional grants administration, the failure to achieve value for money in government procurement, and poor governance arrangements for key stimulus/climate change programs.

Firstly, the Committee reviewed the conduct by Infrastructure Australia of the First National Infrastructure Audit and the development of the Infrastructure Priority List. The Committee was particularly concerned about the lack of transparency regarding decisions made by Infrastructure Australia. The ANAO found that published methodologies were not followed in determining the priorities list and that Infrastructure Australia did not provide clear advice on key decision factors. While the Committee notes that Infrastructure Australia is not formally obligated to document the reasons for the Council's decisions, in the interests of transparency it urges the agency to improve its processes in this area. The Committee also supports the ANAO recommendation that better advice is needed in the future and recommends that Infrastructure Australia provide clear, consistent advice on both the level of funding and funding conditions for priority projects.

Secondly, lack of documentation also concerned the Committee in their examination of the administration of the Strategic Projects Component of the Regional and Local Community Infrastructure Program. In this instance, the Committee registers its dissatisfaction with the Department of Regional Australia, Regional Development and Local Government's (DRARDLG) failure to provide

clear, published assessment criteria for the program. This disregard for basic grants administration practice led to a series of problems and, as a result, the Minister did not receive clear recommendations regarding the eligibility or otherwise of applications from the Department. However, the Committee also notes that under the financial framework requirements, ministers are expected to obtain agency advice on the merits of each proposed grant before making decisions, suggesting that the Minister should have taken the initiative to secure such advice. As a consequence of the lack of documentation in this case, there is no way for the Parliament or the public to be sure that due process has been followed. While the Committee accepts the Department's assurance that it has implemented relevant processes and practices to address the ANAO's concerns, the Committee will expect to see concrete evidence of improved performance in the future.

With regard to grants programs, the Committee recognises the difficulties faced by some local government authorities in complying with stringent application requirements due to lack of access to necessary expertise. Consequently, the Committee supports any attempts to ensure assistance is provided to these authorities, including the provision of adequate feedback to unsuccessful applicants. Overall, the Committee reiterates its ongoing concern with the recurring difficulties identified by the ANAO in grants administration within the DRARDLG and across the Australian Public Service (APS).

Thirdly, and another long term concern of this and previous Committees, is the lack of evidence that value for money is being achieved in Commonwealth procurement. The Committee's review of direct source procurement only served to reinforce these concerns. Again, lack of documentation poses problems, making it difficult to determine if value for money has been achieved. The Committee found that there is a level of confusion over of the Commonwealth Procurement Guidelines but looks forward to clearer, more concise Guidelines as a result of the current review, and a greater understanding and application of these guidelines as a consequence of these changes and our review. The Committee has made a number of recommendations aimed at assisting departments to streamline processes and encourage competency in this area, including actively promoting the use of Central Procurement Units, investigating both the viability of whole-of-government procurement tools and the feasibility of regular, mandatory testing to ensure the competency of financial delegates.

Finally, the Committee turned its attention to the Green Loans and Home Insulation programs. The Committee recognised that both of these programs have been the subject of a number of reviews and, consequently, saw its primary role as identifying the lessons that can be drawn from the difficulties experienced with the implementation and delivery of both programs. Of particular concern to the

Committee were the inadequacy of governance arrangements and the quality of advice provided to ministers. The Committee acknowledges the difficulties caused by tight implementation timeframes but this does not excuse the lack of executive oversight or the underestimation of key program risks.

The issues identified in the ANAO audits examined by the Committee in this report provide a number of areas for reflection for APS agency executives and responsible ministers. Those areas include the need for:

- higher quality advice by departments;
- increased documentation to provide transparency and accountability;
- better grants management;
- improved procurement culture;
- improved culture, capacity and supporting tools to ensure value for money; and
- adequate governance mechanisms for critical implementation programs.


The Committee emphasises the importance of applying this knowledge across the APS and encourages all departments and agencies to ensure that a structured approach is taken to implement change and facilitate ongoing effective service delivery across the APS.

In the 43rd Parliament, it is important to emphasise the bi-partisan conclusion drawn from a Committee involving ALP, Liberal and Independent Members of Parliament. I sincerely thank each Committee member for the non-partisan spirit in which work has been done on these inquiries to date, and the focus on better public administration for Australians.

I also thank Joint Committee of Public Accounts and Audit Secretariat for their on-going diligent and professional work, too much of which goes unnoticed too often.

Thank you.

Robert Oakeshott MP
Chair



Membership of the Committee

Chair Mr Robert Oakeshott MP

Deputy Chair Mrs Yvette D'Ath MP

Members Hon Dick Adams MP

Mr Jamie Briggs MP

Ms Gai Brodtmann MP

Mr Darren Cheeseman MP

Mr Josh Frydenberg MP

Ms Deb O'Neill MP

Ms Laura Smyth MP

Hon Alexander Somlyay MP

Senator Guy Barnett

Senator Mark Bishop

Senator Annette Hurley

Senator Helen Kroger

Senator Glenn Sterle

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Ms Fiona Gardner

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List of abbreviations

AAO	Assessor Accrediting Organisation
ACC	Australian Crime Commission
ALP	Australian Labor Party
ANAO	Australian National Audit Office
BAFO	Best and Final Offer
BCR	Benefit-Cost Ratio
CAC Act	<i>Commonwealth Authorities and Companies Act 1997</i>
CEIs	Chief Executive Instructions
CGGs	Commonwealth Grant Guidelines
COAG	Council of Australian Governments
CPGs	<i>Commonwealth Procurement Guidelines, December 2008</i>
CPU	Central Procurement Unit
DCCEE	Department of Climate Change and Energy Efficiency
DEWHA	Department of the Environment, Water, Heritage and the Arts
DIT	Department of Infrastructure and Transport

DITRDLG	Department of Infrastructure, Transport, Regional Development and Local Government
DRARDLG	Department of Regional Australia, Regional Development and Local Government
DSEWPaC	Department of Sustainability, Environment, Water, Population and Communities
DVA	Department of Veterans' Affairs
EEHP	Energy Efficient Homes Package
FaHCSIA	Department of Families, Housing, Community Services and Indigenous Affairs
Finance	Department of Finance and Deregulation
FMA Act	<i>Financial Management and Accountability Act 1997</i>
FMA Regulations	<i>Financial Management and Accountability Regulations 2007</i>
FMG	Financial Management Guidance
HIP	Home Insulation Program
House Standing Committee	House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government
ICT	Information and Communication Technology
Infrastructure Australia Act	<i>Infrastructure Australia Act 2008</i>
Innovation	Department of Innovation, Industry, Science and Research
JCPAA	Joint Committee of Public Accounts and Audit
LEAPR	Low Emissions Assistance Plan for Renters
LGRF	Local Government Reform Fund
MAC	Management Advisory Committee

MPPs	Mandatory Procurement Procedures
NBN	National Broadband Network
RDACs	Regional Development Advisory Committees
RDAF	Regional Development Australia Fund
RLCIP	Regional and Local Community Infrastructure Program
RLCIP-SP	Regional and Local Community Infrastructure Program- Strategic Projects
SHWR	Solar Hot Water Rebate
SME	Small and Medium Enterprises
Strategic Review of Grants	<i>Strategic Review of the Administration of Government Grant Programs</i> report (31 July 2008)
USFTA	United States Free Trade Agreement



List of recommendations

2 Conduct by Infrastructure Australia of the First National Infrastructure Audit and Development of the Infrastructure Priority List

Recommendation 1 23

The Committee recommends that in future Infrastructure Australia provide clear and consistent advice on the level of funding and necessary conditions it recommends for priority projects.

4 Direct Source Procurement

Recommendation 2 86

The Committee recommends that the Department of Finance and Deregulation actively promote and culturally address the use of CPUs across the Australian Public Service.

Recommendation 3 87

The Committee recommends that the Department of Finance and Deregulation investigate the viability of developing and implementing whole-of-government templates and checklists for use across the Australian Public Service and report back to the Joint Committee of Public Accounts and Audit within six months of the tabling of this report.

Recommendation 4 87

The Committee recommends that the Department of Finance and Deregulation investigate the feasibility of implementing a process of regular, mandatory testing and/or training for all Australian Public Service officers with delegation authority above \$10 000, with the aim of

ensuring currency and competency. Finance should report back to the Joint Committee of Public Accounts and Audit within six months of the tabling of this report.

The investigation should include, but not be limited to, consideration of:

- implementation at agency or whole-of-government level;
- alternative mechanisms to achieve outcomes (see paragraph 4.105 above); and
- the costs and benefits of the scenarios considered.

Introduction

Background to the review

- 1.1 The Joint Committee of Public Accounts and Audit (JCPAA) has a statutory duty to examine all reports of the Auditor-General that are presented to the Australian Parliament, and report the results of its deliberations to both Houses of Parliament. In selecting audit reports for review, the Committee considers:
- the significance of the program or issues raised in audit reports;
 - the significance of the audit findings;
 - the arguments advanced by the audited agencies; and
 - the public interest of the report.
- 1.2 Upon consideration of 26 audit reports presented to the Parliament by the Auditor-General between May 2010 and November 2010, the Committee selected five reports for further scrutiny at public hearings.
- 1.3 The audit reports reviewed by the JCPAA are listed below:
- Audit Report No. 02 2010-11, *Conduct by Infrastructure Australia of the First National Infrastructure Audit and Development of the Infrastructure Priority List*;
 - Audit Report No. 03 2010-11, *The Establishment, Implementation and Administration of the Strategic Projects Component of the Regional and Local Community Infrastructure Program*;

- Audit Report No. 09 2010-11, *Green Loans Program*;
 - Audit Report No. 11 2010-11, *Direct Source Procurement*; and
 - Audit Report No. 12 2010-11, *Home Insulation Program*.
- 1.4 The public hearings for the reports were held on:
- 2 March 2011 (Audit Report No. 11);
 - 21 March 2011 (Audit Report Nos. 02, 03); and
 - 23 March 2011 (Audit Report Nos. 09, 12).
- 1.5 A list of witnesses who appeared at the public hearings is available at Appendix B.

The Committee's report

- 1.6 This report of the Committee's examination draws attention to the main issues raised at the respective public hearings. Where appropriate, the Committee has commented on unresolved or contentious issues, and has made recommendations.
- 1.7 The Committee's report is structured as follows:
- Chapter 2 – Audit Report No. 02 2010-11, *Conduct by Infrastructure Australia of the First National Infrastructure Audit and Development of the Infrastructure Priority List*;
 - Chapter 3 – Audit Report No. 03 2010-11, *The Establishment, Implementation and Administration of the Strategic Projects Component of the Regional and Local Community Infrastructure Program*;
 - Chapter 4 – Audit Report No. 11 2010-11, *Direct Source Procurement*; and
 - Chapter 5 – Audit Report Nos. 09 2010-11, *Green Loans Program* and 12 2010-11, *Home Insulation Program*.
- 1.8 The following appendices provide further information:
- Appendix A – List of submissions; and
 - Appendix B – List of public hearings.
- 1.9 A copy of this report is available on the Committee's website at <http://www.aph.gov.au/house/committee/jcpaa/reports.htm>.

Audit Report No. 02 2010-11

Conduct by Infrastructure Australia of the First National Infrastructure Audit and Development of the Infrastructure Priority List

Introduction¹

- 2.1 In May 2005, the then Shadow Minister for Industry, Infrastructure and Industrial Relations announced the Australian Labor Party's (ALP) intention, if elected, to create a nationally led and coordinated authority, to be titled Infrastructure Australia, to work with the States and Territories to identify and achieve the most effective outcomes for nationally significant infrastructure.²
- 2.2 Following the ALP's election to Government, the Infrastructure Australia Bill was introduced in the Parliament on 21 February 2008, passed both Houses of Parliament in March 2008, and the Act commenced on 9 April 2008. *The Infrastructure Australia Act 2008 (the Infrastructure Australia Act)*

1 The following information is taken from Audit Report No. 02 2010-11, *Conduct by Infrastructure Australia of the First National Infrastructure Audit and Development of the Infrastructure Priority List*, pp. 11-17.

2 Stephen Smith (then Shadow Minister for Industry, Infrastructure and Industrial Relations), *Announcement of Infrastructure Australia*, Media Release, 12 May 2005.

established Infrastructure Australia and set out Infrastructure Australia's functions. Infrastructure Australia's primary function under the Act is to provide advice to the Minister, all levels of government, and investors and owners of infrastructure on matters relating to infrastructure.

Infrastructure Australia was also given a number of additional functions, including:

- conducting audits to determine the adequacy, capacity and condition of nationally significant infrastructure, taking into account forecast growth; and
- developing lists (to be known as Infrastructure Priority Lists) that prioritise Australia's infrastructure needs.

Governance arrangements

- 2.3 Under the Infrastructure Australia Act, the Infrastructure Australia Council consists of a Chair and eleven other members. The Minister appoints the Chair and the other members of the Council by written instrument made under the Act.³ The Chair of the Infrastructure Australia Council, Sir Rod Eddington, was announced by the Minister for Infrastructure, Transport, Regional Development and Local Government on 26 February 2008. The other eleven members of the Council were announced on 19 May 2008. The Infrastructure Australia Council has the statutory role of providing advice to the Minister for Infrastructure, Transport, Regional Development and Local Government (the Minister) on infrastructure matters, including the development of priority lists.
- 2.4 The Infrastructure Coordinator (a statutory office holder also appointed by the Minister under the Act) supports the Council in the performance of its functions. The Infrastructure Coordinator is appointed by the Minister on a full-time basis for a period not exceeding five years. The appointment of the inaugural Infrastructure Coordinator, Mr Michael Deegan, was announced on 22 June 2008, with his role formally commencing on 1 July 2008.
- 2.5 The Office of the Infrastructure Coordinator supports the Infrastructure Coordinator.⁴ As well as a small number of permanent staff members (16

3 The Act sets out a number of requirements in relation to the composition, background and skills of Council Members that the Minister must ensure are satisfied in making appointments to the Council.

4 For the purposes of this audit report, the term 'Infrastructure Australia' is used to refer jointly to the Infrastructure Australia Council, the Infrastructure Coordinator and the Office of the Infrastructure Coordinator. Otherwise, the report explicitly refers to the relevant party.

as at October 2009, including four staff in the Major Cities Unit) and secondees from State and Territory governments, a range of external advisors are engaged as required.

2.6 Infrastructure Australia is a departmental body recognised in legislation and is neither a prescribed agency under the *Financial Management and Accountability Act 1997* nor a statutory authority under the *Commonwealth Authorities and Companies Act 1997*. Accordingly, the Office of the Infrastructure Coordinator operates within the legal framework of the Department of Infrastructure, Transport, Regional Development and Local Government (DITRDLG).⁵ Specifically:

- staff are engaged under the *Public Services Act 1999*, and are employees of DITRDLG; and
- financial reporting is consolidated within the annual financial statements of DITRDLG.

2.7 The May 2008 Budget included \$20 million over four years to fund the Office of the Infrastructure Coordinator, with \$0.5 million for 2007-08 and \$6.5 million in each of the remaining three years. A further \$1.0 million per annum was provided for the Major Cities Unit, located within the Office of the Infrastructure Coordinator.⁶ In announcing the Infrastructure Australia funding, the Budget Papers stated that:

The Government will provide \$20.0 million over four years to establish Infrastructure Australia, a statutory advisory council with twelve members drawn from industry and government, to work on developing long term solutions for infrastructure bottlenecks and investment in the nation's transport, water, energy and communication assets.

Infrastructure Australia will conduct audits of nationally significant infrastructure; develop an Infrastructure Priority List to guide public and private investment; and provide advice on

5 Due to machinery of government changes after the election in August 2010, the DITRDLG is now the Department of Regional Australia, Regional Development and Local Government (DRARDLG).

6 The \$6.5 million budget allocated to the Office of the Infrastructure Coordinator is required to meet any budget deficits of the Major Cities Unit. Department outputs are appropriated as a single amount for each entity, such that the \$7.5 million per annum annual funding for the Office of the Infrastructure Coordinator (including the Major Cities Unit) is able to be used to fund any departmental expenditure in the Department of Infrastructure, Transport, Regional Development and Local Government. In this context, corporate overheads for 2009-10 are expected to be some \$1.876 million.

regulatory reforms that can improve the utilisation of infrastructure networks. In developing the Infrastructure Priority List, Infrastructure Australia will assess projects in terms of specific goals, such as, meeting water and energy needs; traffic congestion in our major cities; efficiently moving freight from regional areas to our ports; and meeting the challenge of climate change.⁷

2.8 The May 2008 Budget Papers also included a statement focussing on the scope for improved policy and institutional frameworks for infrastructure investment, and investment in skills and training, as these were seen as areas where there was significant scope to lift Australia's productive capacity. Of direct relevance to the work of Infrastructure Australia, in this statement, the Government:

- recognised that, where governments invest in infrastructure assets, it is essential that they seek to achieve maximum economic and social benefits, determined through rigorous cost-benefit analysis including evaluation and review;
- stated that only public infrastructure projects which at least meet a minimum benchmark social rate of return – determined through rigorous cost-benefit analysis, including evaluation and review – should be funded, and relative social rates of return above the minimum benchmark should be used to prioritise the funding of projects;
- committed to efficient public infrastructure investment through the development of coordinated, objective and transparent processes for decision-making based on thorough and rigorous cost-benefit analysis. Key elements of such an approach were seen as including decision-making based on rigorous cost-benefit analysis to ensure the highest economic and social benefits to the nation over the long-term and a commitment to transparency at all stages of the decision-making process; and
- outlined that Infrastructure Australia had been established to improve processes around the assessment of infrastructure investment decisions. Specifically, the Budget Papers stated that:
 - ⇒ To improve processes around the assessment of infrastructure investment decisions, the Australian Government established Infrastructure Australia to advise governments on nationally significant infrastructure.

7 Budget Paper No. 2 2008-09, *Budget Measures*, circulated by The Honourable Wayne Swan MP, Treasurer of the Commonwealth of Australia and The Honourable Lindsay Tanner MP, Minister for Finance and Deregulation of the Commonwealth of Australia for the information of Honourable Members on the occasion of the Budget 2008-09, 13 May 2008, p. 266.

Infrastructure Australia's advice will be based on rigorous analysis of the costs and benefits of various infrastructure proposals. Infrastructure Australia will identify strategic investment priorities and policy and regulatory reforms to facilitate timely and coordinated delivery of infrastructure investments of national importance between all levels of government and industry. Infrastructure Australia's immediate priority is to complete a National Infrastructure Audit by the end of 2008, and develop an Infrastructure Priority List for COAG consideration in March 2009. It is also to develop best practice guidelines for Public Private Partnerships for COAG consideration by October 2008.⁸

- 2.9 Decisions about whether to invest in projects are taken by governments and industry, having regard to the advice of Infrastructure Australia, amongst others.

Conduct of the First National Infrastructure Audit and Development of the First Infrastructure Priority List

- 2.10 The first Infrastructure Priority List was originally to be completed by March 2009, for consideration by the Council of Australian Governments (COAG).⁹ It had been envisaged that development of the Priority List would be informed by the outcomes of the first National Infrastructure Audit, due to be completed by December 2008. However, following the onset of the global financial crisis, COAG brought the timeframe for completion of the first Priority List forward to December 2008, to be due at the same time as the completion of the first Audit.¹⁰ In bringing forward the due date for the first Priority List, COAG noted that the Audit and Priority List were to be provided in the form of an 'interim' report. The original COAG deadline of March 2009 was retained for the completion of a 'final' Priority List.

8 Budget Paper No. 1 2008-09, *Budget Strategy and Outlook*, circulated by The Honourable Wayne Swan MP, Treasurer of the Commonwealth of Australia and The Honourable Lindsay Tanner MP, Minister for Finance and Deregulation of the Commonwealth of Australia for the information of Honourable Members on the occasion of the Budget 2008-09, 13 May 2008, pp. 4-13.

9 COAG Meeting Communique, 26 March 2008.

10 COAG Meeting Communique, 2 October 2008.

2.11 The truncation of an already tight timetable added to the challenges faced by Infrastructure Australia in conducting the first National Infrastructure Audit and in developing the first Infrastructure Priority List. In particular:

- this was the first time a non-sector specific list of priority infrastructure projects was to be prepared at the Commonwealth level such that the List published in December 2008 included infrastructure projects in the transport, energy, telecommunications, water and health sectors; and
- the Office of the Infrastructure Coordinator was required to develop and implement its own administrative arrangements and make the necessary staff and advisory appointments for its operations concurrently with conducting the National Infrastructure Audit, developing the Priority List and preparing and publishing national Public Private Partnership Guidelines.

2.12 The COAG deadline of December 2008 was met, with advice on the Audit results and a draft Interim Priority List being provided to the Minister on 5 December 2008. The Audit results and an Interim Priority List of 94 projects were publicly released on 19 December 2008 in a report titled *A Report to the Council of Australian Governments*. In respect to the Interim Priority List of 94 projects, the report stated that:

In order to finalise the Infrastructure Priority List, Infrastructure Australia proposes to:

- subject the data underpinning the assessment of strategic fit to further detailed scrutiny;
- request the development of comprehensive economic analysis of selected projects, where only a rapid economic analysis is available at this stage;
- ask submitting organisations to provide comprehensive economic analysis of specified projects immediately, if currently available;
- request and scrutinise the detailed demand modelling underpinning the projects; and
- subject the economic modelling methodology to further scrutiny.¹¹

2.13 A Final Priority List was released by the Minister on Tuesday 12 May 2009¹² within a document titled *National Infrastructure Priorities*:

11 Infrastructure Australia, *A Report to the Council of Australian Governments*, December 2008, p. 72.

12 The Hon Anthony Albanese MP (Minister for Infrastructure, Transport, Regional Development and Local Government), *Investing in the Nation's Infrastructure Priorities*, Media Release, 12 May 2009.

Infrastructure for an economically, socially and environmentally sustainable future. Specifically the document stated that:

- nine 'priority' projects had been identified and should be considered for funding from the Building Australia Fund (together with a tenth project, being the Ipswich Motorway); and
- 28 'pipeline' projects were considered to show potential but further project development and analysis was required before Infrastructure Australia considered it would be able to make a funding recommendation to the Australian Government.

2.14 A key aspect of the Infrastructure Australia analytical framework for the Infrastructure Priority List was the development of a staged assessment process to prioritise between investment proposals, drawing from international and nationally-based practices and research. Of note was that the published methodology outlined that objective cost-benefit analysis (through Benefit-Cost Ratios or BCRs) would be used as the 'primary driver' of decision-making but they were not the only consideration. Consistent with the published methodology, a structured approach was planned by the Office of the Infrastructure Coordinator to combine the economic appraisal of a project's BCR with its assessment of each candidate project's 'strategic fit' in order to identify those projects worthy of further consideration (at the Interim Priority List stage) and, subsequently, to be included on the Final Priority List.

The ANAO Audit

Audit objectives and scope¹³

2.15 In November 2008, the Infrastructure Coordinator wrote to the Auditor-General inviting an independent assessment of the integrity and robustness of the processes that had been adopted in:

- undertaking the first National Infrastructure Audit; and
- developing the first Infrastructure Priority List.

2.16 The Auditor-General agreed to this request as it was consistent with the published audit strategy for the Infrastructure, Transport, Regional Development and Local Government portfolio. The objective for the

13 The following information is taken from Audit Report No. 02 2010-11, pp. 18-19.

Australian National Audit Office (ANAO) performance audit was to assess the effectiveness of the conduct of the first National Infrastructure Audit and development of the Infrastructure Priority List, with particular emphasis on:

- the submissions process and the methodology used to assess submissions;
- the overall conduct of the Audit process;
- the formulation of the Interim and Final Infrastructure Priority Lists; and
- the provision of advice and recommendations to the Government.

2.17 Audit work originally commenced in March 2009 but was put on hold in late June 2009 in order to respond to a request from the then Prime Minister for a performance audit of a range of matters relating to representations to the Treasury regarding finance arrangements for car dealers. Audit work re-commenced in August 2009.

Overall audit conclusion

2.18 The ANAO made the following overall audit conclusion:

Infrastructure Australia was established to improve the quality of infrastructure planning and investment strategy, and to identify those investments expected to make the biggest impact on Australia's economic, social and environmental goals for least cost to the taxpayer. Accordingly, it is a goal of Infrastructure Australia that infrastructure funding decisions will be taken following careful planning and rigorous assessments that are based on sufficient evidence.

Consistent with sound practice, Infrastructure Australia published guidance on its audit framework and on its prioritisation methodology, although the prioritisation methodology was released relatively late in the submissions process due to a range of demands on the Office at the time.

The published National Infrastructure Audit framework was sound. In conducting the Audit, the Office of the Infrastructure Coordinator relied on a range of material, although the short time available to conduct the Audit meant that most reliance was placed on submissions received from the States and Territories. The Audit identified a range of 'challenges' at the national and

location-specific levels and Infrastructure Australia formulated seven themes in response to these challenges.

Infrastructure Australia's methodology provided a robust framework for the development of the Interim and Final Infrastructure Priority Lists. This was reinforced by the Office of the Infrastructure Coordinator taking a rigorous approach to assessing candidate projects including by: scrutinising the claims made by proponents in their submissions; seeking further information where it was needed; and engaging advisers to assist it in deciding whether the BCR submitted by the proponent could be relied upon, or required moderation.¹⁴

The Interim Priority List, published in December 2008, comprised 94 projects. During November 2008, these 94 projects being recommended by the Office of the Infrastructure Coordinator, with 28 projects being recommended by the Office of the Infrastructure Coordinator as meriting further consideration. Consistent with its statutory role, the Council (with the support of the Infrastructure Coordinator) took a different perspective, and included all 94 shortlisted projects on the Interim Priority List. This decision, and its reasons, were not documented in the records of the relevant Council meeting. In June 2010, the Chair of the Infrastructure Australia Council informed ANAO that the Council and the Infrastructure Coordinator had agreed that further information should be requested from all 94 projects to allow for:

- additional evidence to come forward before the original deadline for the completion of the Final Priority List; and
- the Office of the Infrastructure Coordinator's assessment to be updated given the initial assessment by the Office of the Infrastructure Coordinator reflected the available information and time available for assessment.

Further information was provided in respect to some projects, and some project assessments were updated but, in the main, the December 2008 request to proponents of all 94 projects on the Interim Priority List that they provide further information was unsuccessful in significantly improving the information available to inform the development of the Final Priority List.

...

14 In particular, the analysis examined the robustness of the demand forecasts, the robustness of the proponent's costing, key methodological questions and benchmarked the figures used by the proponent.

The Final Priority List was published in May 2009. It comprised:

- nine 'priority' projects that had been assessed as meeting the tests outlined in the published Prioritisation Methodology, including having a BCR greater than 1 such that the project offered net economic benefits; and
- 28 'pipeline' projects, largely comprising projects which either had not submitted a BCR for the Office of the Infrastructure Coordinator's evaluation, or where the Office of the Infrastructure Coordinator's evaluation had identified shortcomings in the BCR.¹⁵

2.19 The ANAO found that the nine priority projects had been selected using the criteria in the published Prioritisation Methodology but that the 28 pipeline projects had not. In particular, the 28 pipeline projects had not 'demonstrated their economic viability' or 'robust delivery mechanisms that would ensure they could be successfully implemented'.¹⁶ Further, the ANAO found that 'there was no clear record maintained of the reasons' for the Council's decisions to include or exclude projects.¹⁷

2.20 The ANAO found that the approach taken to developing the Final Priority List differed significantly from that taken to developing the Interim Priority List. Although the Infrastructure Coordinator had proposed a similar process, the Council itself took the lead in guiding the evaluation process. In consequence no evaluation report recording the evaluation process was prepared by the Infrastructure Coordinator. Instead the minutes of Council meetings were relied on to provide information regarding the decision making process and the ANAO found that these were an inadequate record:

... the primary records of the development of the List were the papers submitted to the Council meetings and the meeting Minutes. ... However, Council meeting Minutes often did not record when it was decided to include projects on the Final Priority List or why. Rather, the best record of the evolving Final Priority List was the various drafts of the List circulated to Council members prior to and following the meetings.¹⁸

2.21 The ANAO noted that once it has published its Priority List, the Infrastructure Council 'does not have a role to play in allocating funding for infrastructure projects'.¹⁹ Rather, this is the responsibility of the

15 Audit Report No. 02 2010-11, p. 21.

16 Audit Report No. 02 2010-11, p. 22.

17 Audit Report No. 02 2010-11, p. 22.

18 Audit Report No. 02 2010-11, p. 32.

19 Audit Report No. 02 2010-11, p. 22.

Government and in this case the ANAO found that the Government provided funding for seven of the priority projects and six of the pipeline projects in the May 2009 Budget and funding for a further two pipeline projects in the May 2010 Budget.²⁰

2.22 The ANAO acknowledged that Infrastructure Australia has the responsibility for ‘developing Lists that prioritise Australia’s infrastructure needs’ and that that Council has the ‘capacity to look beyond the initial information submitted to it by project proponents and assessments prepared for it by the Office of the Infrastructure Coordinator’.²¹

2.23 However, the ANAO was critical of the departure from the criteria set out in the published Prioritisation Methodology, particularly with regard to the distinction between priority and pipeline projects.²² The ANAO advised that, in future, assessment criteria for both categories should be clearly set out and the reasons for decisions documented:

Recognising the value to long term infrastructure planning from the development and ongoing update of a pipeline of nationally significant projects, there would be benefit in Infrastructure Australia setting out its methodology more clearly to inform project proponents and other stakeholders of its approach. In addition, there would be benefit in better records being made of the reasons for Council decisions on the composition of project Priority Lists given the significance of the advice being provided and Infrastructure Australia’s goal of promoting evidence-based public investment decisions.²³

ANAO recommendations

Table 2.1 ANAO recommendations, Audit Report No. 02 2010-11

1.	ANAO recommends that Infrastructure Australia promote greater transparency over the development of future Infrastructure Priority Lists by maintaining records that clearly outline when decisions are taken to include projects on the List, and the reasons for their inclusion.
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Infrastructure Australia response: *Agreed*

20 Audit Report No. 02 2010-11, p. 22.

21 Audit Report No. 02 2010-11, pp. 22-23.

22 Audit Report No. 02 2010-11, p. 23.

23 Audit Report No. 02 2010-11, p. 23. Note that under the legislative arrangements, the Council was empowered to decide which projects should be included on the Final Priority List, and there was no requirement for the Council to document the nature and extent of any inquiries undertaken, or to record the reasons for decisions taken.

2. In light of the important role Infrastructure Australia seeks to play in promoting best practice infrastructure planning and decision-making, ANAO recommends that future prioritisation processes include information in the published guidance on the different criteria that will be applied to discriminate between priority projects that are ready to proceed and those that exhibit potential but require further development before being considered for possible funding.

Infrastructure Australia response: *Agreed*

3. ANAO recommends that Infrastructure Australia, where reporting the results of future infrastructure project prioritisation processes, provide clear advice on:
- (a) the relative priority of projects recommended for funding consideration having regard to the results of its appraisal of their economic merits and other factors taken into account in the prioritisation process;
 - (b) the level and form of Commonwealth funding it recommends for priority projects that are ready to proceed, together with any conditions it suggests should be attached to this funding; and
 - (c) any other projects it would support being considered for planning and/or design work funding.

Infrastructure Australia response: *Agreed to part (a) and (c) and agreed with qualification with part (b). In respect to part (b), Infrastructure Australia commented that:*

While we agree that making the case for public funding and its exact form is important, the split between jurisdictions will be influenced by a wide variety of factors. Funding is obviously a matter for the Government to decide taking into account these factors in considering competing budget priorities.

The Committee's review

2.24 The Committee held a public hearing on Monday 21 March 2011, with the following witnesses:

- Australian National Audit Office (ANAO); and
- Infrastructure Australia.

2.25 The Committee took evidence on the following issues:

- data collection;
- national strategic focus;
- National Broadband Network (NBN);
- feedback to unsuccessful applicants;
- Benefit-Cost Ratio (BCR);
- Indigenous participation; and
- implementation of ANAO recommendations.

Data collection

- 2.26 The ANAO found that Infrastructure Australia had not addressed COAG's objectives for the National Infrastructure Audit but instead had identified a range of 'challenges'.²⁴ Infrastructure Australia advised the ANAO that there were a number of reasons for departing from the original objectives of the National Infrastructure Audit including 'considerable gaps in the national systems for collecting, holding and analysing the data used to inform infrastructure investment decisions'.²⁵
- 2.27 The Committee asked Infrastructure Australia if any steps have been taken to improve data collection so as to enable a more comprehensive approach to auditing infrastructure across Australia. The agency informed the Committee that the issue has been raised in a number of discussion papers:

The question of nationally consistent and relevant data for port and for freight are raised in the national ports strategy and land freight strategy discussion paper. The national ports strategy has a series of recommendations regarding publication of data, including forecasts and performance indicators. The land freight strategy discussion paper raised similar matters regarding data and forecasts for the principal land freight routes and nodes in Australia.²⁶

National strategic focus

- 2.28 The Committee heard from the Infrastructure Coordinator, Mr Michael Deegan, that Infrastructure Australia is focussed on developing an overall national infrastructure strategy aimed at improving Australia's economic performance and productivity.²⁷ Mr Deegan told the Committee that the audit review had assisted the agency to more clearly define this aim and put in place a more appropriate assessment process for projects.²⁸ This required a top-down national overview approach to the assessment of

24 Audit Report No. 02 2010-11, pp. 65-66.

25 Audit Report No. 02 2010-11, p. 67.

26 Infrastructure Australia, *Submission ???*, p. [2].

27 Mr Michael Deegan, Infrastructure Coordinator, Infrastructure Australia, *Committee Hansard*, Canberra, 21 March 2011, p. 2.

28 Mr Deegan, Infrastructure Australia, *Committee Hansard*, Canberra, 21 March 2011, pp. 2-3.

projects instead of the bottom-up approach originally taken.²⁹ He explained the benefits of the improvements:

With these sorts of issues, over the longer term we can stand back and have a look at how these things might work, then determine which projects are more important than others in terms of long-term economic development, and then to the sorts of issues we have been discussing with the Audit Office about the detail of how those projects may be assessed. I think that the benefit of the process we have had is that we have collectively had a chance to stand back from the process and think of the sorts of economic development the country would be better assisted by.³⁰

2.29 The Committee asked Infrastructure Australia what steps it has taken to communicate this strategic overview to state, territory and local governments. Infrastructure Australia told the Committee that all of its reports are available on the agency's website as well as being provided nationally, including to parliaments. In addition the agency has:

... an extensive direct engagement with local and state governments and particularly with industry, and we are seeking to build a collaborative model with each of those players.³¹

2.30 The Infrastructure Coordinator provided a number of examples to illustrate the type and level of communication strategies used to engage with various levels of government. Speaking of the national port strategy, he explained:

... we have had the 14 mayors from Townsville all the way up that rail line to Mount Isa engaging in a process with us. They have understood the value of that economic development for the nation and have taken very seriously a master planning project for the next 30 years for the whole of that supply chain, which they hope to conclude in the next nine months or so.³²

2.31 The Committee asked if Infrastructure Australia was successfully shifting the vision of local government authorities from their emphasis on road development to a broader understanding of infrastructure development. The agency told the Committee that local governments have responded well and do understand the 'need to think strategically at that higher

29 Mr Deegan, Infrastructure Australia, *Committee Hansard*, Canberra, 21 March 2011, p. 2.

30 Mr Deegan, Infrastructure Australia, *Committee Hansard*, Canberra, 21 March 2011, p. 3.

31 Mr Deegan, Infrastructure Australia, *Committee Hansard*, Canberra, 21 March 2011, p. 4.

32 Mr Deegan, Infrastructure Australia, *Committee Hansard*, Canberra, 21 March 2011, p. 4.

level'.³³ However, Infrastructure Australia acknowledged the difficulties inherent in dealing with the variety of local government structures across the country.³⁴

- 2.32 The Committee asked what steps Infrastructure Australia was taking to ensure the sustainability of the overall infrastructure program. The agency informed the Committee that it attempts to test the sustainability of all projects, engaging with other relevant stakeholders and departments. The Infrastructure Coordinator provided the example of the national port strategy:

Taking a broader view of, for example, our national port strategy around the longer term impact of climate change, the sorts of changes there might be as people like the Insurance Council and others are dealing with ports, people's housing, wind speeds, heat and those sorts of issues. So we have a close relationship with the Department of Climate Change and we had an officer from that department seconded to our organisation for a number of months working with us on those issues.³⁵

National Broadband Network

- 2.33 The Committee inquired, in light of the national focus of the agency, whether or not Infrastructure Australia was involved in the oversight of the Government's National Broadband Network (NBN). Infrastructure Australia acknowledged the importance of the infrastructure project but told the Committee that it has 'not been involved in any of the discussions around cost-benefit analysis' for the NBN.³⁶ Questioned further, the agency maintained that it was a Government decision that Infrastructure Australia should not be engaged in the project.³⁷
- 2.34 As telecommunications is one of the key areas that Infrastructure Australia is obligated to look at, the Committee asked why the agency had not been asked to assess the NBN. Infrastructure Australia told the Committee that the Government had 'already created a process' to deal with the NBN which did not involve the agency.³⁸

33 Mr Deegan, Infrastructure Australia, *Committee Hansard*, Canberra, 21 March 2011, p. 7.

34 Mr Deegan, Infrastructure Australia, *Committee Hansard*, Canberra, 21 March 2011, p. 7.

35 Mr Deegan, Infrastructure Australia, *Committee Hansard*, Canberra, 21 March 2011, p. 8.

36 Mr Deegan, Infrastructure Australia, *Committee Hansard*, Canberra, 21 March 2011, p. 3.

37 Mr Deegan, Infrastructure Australia, *Committee Hansard*, Canberra, 21 March 2011, p. 3.

38 Mr Deegan, Infrastructure Australia, *Committee Hansard*, Canberra, 21 March 2011, p. 8.

- 2.35 The Committee asked Infrastructure Australia if the agency would have been able to contribute expertise to the cost-benefit analysis of the project. Infrastructure Australia reiterated that there were adequate processes in place to carry out this assessment and that the agency's involvement would have created 'unnecessary duplication'.³⁹ Infrastructure Australia added that it is only a small organisation and that its resources were fully committed.⁴⁰

Feedback to unsuccessful applicants

- 2.36 The Committee asked if Infrastructure Australia had provided feedback to unsuccessful applicants. Infrastructure Australia told the Committee that the agency had responded to proponents, explaining requirements for future submissions. Although Infrastructure Australia admitted that some proponents were disappointed in the results, the agency maintains that:

The latest release of our draft reports for the Infrastructure Council back to proponents has meant a fair bit of honest discussion about the sorts of conclusions we have drawn.⁴¹

Benefit-Cost Ratio

- 2.37 The ANAO found that the Prioritisation Methodology developed by Infrastructure Australia to assess projects was based on good practice and provided a 'robust framework for the development of the first Infrastructure Priority List'.⁴² The ANAO noted that the 'primary driver' for assessment evaluation was through the use of the Benefit-Cost Ratio (BCR).⁴³ The Committee asked Infrastructure Australia how the agency applied the cost-benefit analysis to individual projects.
- 2.38 Infrastructure Australia referred the Committee to the revised *Better Infrastructure Decision Making* Guidelines, implemented in October 2010, where the process is explained:

The second stage – economic viability – seeks to establish whether a proposal's economic, social and environmental benefits outweigh its costs to society, in a triple bottom line assessment. The bedrock of this assessment is a traditional, and widely

39 Mr Deegan, Infrastructure Australia, *Committee Hansard*, Canberra, 21 March 2011, p. 9.

40 Mr Deegan, Infrastructure Australia, *Committee Hansard*, Canberra, 21 March 2011, p. 3.

41 Mr Deegan, Infrastructure Australia, *Committee Hansard*, Canberra, 21 March 2011, p. 5.

42 Audit Report No. 02 2010-11, p. 73.

43 Audit Report No. 02 2010-11, p. 74.

understood, monetised benefit-cost assessment, complemented by qualitative assessment of impacts where monetisation is not feasible.

In process terms, independent cost-benefit experts scrutinise submissions to ensure they are robust and comparable, using a standardised pro-forma of 'issues for investigation' prepared by Infrastructure Australia, as well as bringing their own expertise to identify issues in any aspect of the business case.⁴⁴

- 2.39 While acknowledging that the reliance on assessment of the BCR was an acceptable assessment tool for prioritisation of projects, the ANAO found that there were considerable shortcomings in the quality of the BCRs submitted to Infrastructure Australia.⁴⁵ The Committee asked Infrastructure Australia if the revised guidelines had improved the process. The Infrastructure Coordinator told the Committee that there have been improvements:

... we have seen a number of jurisdictions put considerable effort into improving their skills and analytical work, both at the strategic level and then at the project level. Guidelines have been circulated and commented upon by a number of proponents. Again, it is trying to keep the balance between getting the right economic outcome and a process that local councils and others can follow and implement without putting them to unreasonable lengths.⁴⁶

- 2.40 The Committee expressed concern that local government would not have ready access to the expertise required to provide the detailed economic and cost-benefit analysis requested. Infrastructure Australia admitted that this had been an issue for some local government authorities but insisted that it had not had a detrimental effect:

Where we believe there are projects of national economic significance, we will assist them in getting material together or

44 Infrastructure Australia, *Better Infrastructure Decision-Making: Guidelines for making submissions to Infrastructure Australia's infrastructure planning process, through Infrastructure Australia's Reform and Investment Framework*, <http://www.infrastructureaustralia.gov.au/reform_investment/files/Better_Infrastructure_Decision_Making_Guidelines.pdf> viewed 28 April 2011.

45 Audit Report No. 02 2010-11, pp. 91-92.

46 Mr Deegan, Infrastructure Australia, *Committee Hansard*, Canberra, 21 March 2011, p. 3.

give them advice as to particularly strong analysts that they might use. If it is a good enough project they will find a way to do it.⁴⁷

- 2.41 The Committee asked Infrastructure Australia if the emphasis on economic analysis had precluded other considerations, particularly social outcomes. The agency assured the Committee that other considerations were taken into account but reiterated that the need for infrastructure development to fit into a national framework was paramount:

Is it truly of national significance and will increase Australia's economic productivity? And in that process we look at the detail of the cost-benefit analysis of particular projects. But as I indicated earlier, we are keen to see that the projects fit together in a framework.⁴⁸

- 2.42 Infrastructure Australia illustrated the type of broader factors that were taken into consideration in addition to the cost-benefit analysis:

... if you are going to deal with Gold Coast transport issues, how will the light rail hook into the heavy rail, how will that connect into northern New South Wales, what are the issues around the airport, where is that holistic view of what needs to happen at the Gold Coast, and how do those sorts of opportunities then link into the major highway between Sydney and Brisbane, the major rail route and the longer term inland rail connectivity?⁴⁹

Indigenous participation

- 2.43 With regard to social outcomes, the Committee questioned Infrastructure Australia on Indigenous participation in the project and what steps had been taken to ensure equity for Indigenous communities. Infrastructure Australia told the Committee that the agency had identified a number of issues facing Indigenous community access to the program, particularly remote community access.⁵⁰

- 2.44 Infrastructure Australia has been working with the Coordinator-General of Remote Indigenous Services and has received a joint submission from the Western Australia, Northern Territory and Queensland governments addressing road access to some of these communities.⁵¹ To overcome some

47 Mr Deegan, Infrastructure Australia, *Committee Hansard*, Canberra, 21 March 2011, p. 5.

48 Mr Deegan, Infrastructure Australia, *Committee Hansard*, Canberra, 21 March 2011, p. 6.

49 Mr Deegan, Infrastructure Australia, *Committee Hansard*, Canberra, 21 March 2011, p. 6.

50 Mr Deegan, Infrastructure Australia, *Committee Hansard*, Canberra, 21 March 2011, p. 6.

51 Mr Deegan, Infrastructure Australia, *Committee Hansard*, Canberra, 21 March 2011, p. 7.

of these issues the agency is in the process of developing a framework to assess relevant applications:

We are currently developing a framework to try to deal with those issues and the social equity side of that. There is a lot of work going on, again as you would be aware, about the local town planning issues associated with water quality, energy supply and local access. We are working with a number of those communities and their state governments around the road access at a regional level – they are quite difficult issues that are before us.⁵²

Implementation of ANAO recommendations

2.45 The ANAO was critical of the lack of evidence of the reasons for decisions regarding the inclusion or exclusion of projects from the Final Priority List. The ANAO recommended that record maintenance be improved to ensure that these decisions are fully documented.⁵³ The Committee asked Infrastructure Australia what steps had been taken to implement this recommendation.

2.46 The agency told the Committee that, despite holding a different view on the issue to the ANAO, Infrastructure Australia is addressing the recommendation:

... we are making sure that the suggestions of the Audit Office are included in our analysis and final reports. So we will comply with that. There is a difference of view as to how much detail is required but we are seeking to be transparent in our process.⁵⁴

2.47 The Committee acknowledged that Infrastructure Australia had addressed the recommendations of the audit report but asked if there were still difficulties in the practical implementation of any of the recommendations. Although Infrastructure Australia admitted that it had been a rigorous undertaking, the agency claimed it had adopted and implemented the recommendations and confirmed the exercise had resulted in a better performance for the agency.⁵⁵

2.48 The Committee asked if the agency had taken any steps to improve its processes beyond the requirements of the ANAO recommendations. The

52 Mr Deegan, Infrastructure Australia, *Committee Hansard*, Canberra, 21 March 2011, p. 7.

53 Audit Report No. 02 2010-11, pp. 121-122.

54 Mr Deegan, Infrastructure Australia, *Committee Hansard*, Canberra, 21 March 2011, p. 8.

55 Mr Deegan, Infrastructure Australia, *Committee Hansard*, Canberra, 21 March 2011, p. 6.

agency told the Committee it had taken the opportunity to work with the ANAO to address a number of smaller administrative issues that had been brought to the agency's attention. The Infrastructure Coordinator drew attention to the more comprehensive feedback being provided to applicants:

We have, in this latest round of assessing projects, circulated our draft advice and recommendations to each of the proponents so that on this occasion they have an opportunity to respond and to consider the sorts of issues that we have raised with them.⁵⁶

Committee comment

- 2.49 The Committee understands the need for a focus on a national infrastructure strategy and is satisfied that Infrastructure Australia is communicating its strategy to relevant stakeholders, including state, territory and local governments.
- 2.50 A number of Committee Members expressed concern regarding the lack of involvement of Infrastructure Australia in the assessment and oversight of the National Broadband Network project. Considering that the NBN is possibly Australia's largest current infrastructure project and that Infrastructure Australia was set up to advise the Government on nationally significant infrastructure projects, several Committee Members feel that it is necessary for Infrastructure Australia to have the opportunity to consider the project.
- 2.51 While the Committee accepts the Auditor-General's assurance that Infrastructure Australia has implemented the ANAO recommendations, it remains concerned that the decision making process is not as transparent as it should be. In particular, the Committee disagrees with Infrastructure Australia's qualified answer to recommendation 3 (b) and suggests that it is within the agency's remit to provide clear advice on the level of funding and necessary conditions it recommends for priority projects. Indeed the Committee believes that best practice would suggest an obligation for Infrastructure Australia to provide such information, especially given the strong statements related to this point in the May 2008 Budget Statements.
- 2.52 The Committee is strongly concerned by the ANAO's findings that the published Prioritisation Methodology was not followed in all cases and that the decisions on the composition of project priority lists taken by the
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56 Mr Deegan, Infrastructure Australia, *Committee Hansard*, Canberra, 21 March 2011, p. 2.

Infrastructure Australia Council were not transparent. The Committee notes that although not formally obligated to do so the Council, and the Office of the Infrastructure Coordinator, should have clearly documented the reasons for decisions taken regarding the Priority List.

- 2.53 The Committee recognises the issues facing Indigenous communities regarding access to the program and is concerned about the equity implications. The Committee notes the cooperative approach being undertaken by Infrastructure Australia to overcome some of these issues and encourages the agency to complete the development of the Indigenous participation framework as soon as possible.

Recommendation 1

The Committee recommends that in future Infrastructure Australia provide clear and consistent advice on the level of funding and necessary conditions it recommends for priority projects.

Audit Report No. 03 2010-11

The Establishment, Implementation and Administration of the Strategic Projects Component of the Regional and Local Community Infrastructure Program

Introduction¹

- 3.1 The onset of the global financial crisis in 2008 caused a severe loss of confidence, not only in the financial sector, but also in households and businesses around the world. The result was a period of global economic downturn and a prospect of rising unemployment in many countries.
- 3.2 In response, many governments around the world have adopted fiscal measures to support employment and economic recovery. Domestically, the Australian Government announced a series of stimulus measures in late 2008 and early 2009. Included in these was the Regional and Local Community Infrastructure Program (RLCIP).
- 3.3 The RLCIP is administered by the Department of Infrastructure, Transport, Regional Development and Local Government (DITRD LG). Its

¹ The following information is taken from Audit Report No. 03 2010-11, *The Establishment, Implementation and Administration of the Strategic Projects Component of the Regional and Local Community Infrastructure Program*, pp. 13-19.

establishment had been announced in the May 2008 Budget, to replace from 2009-10 the Regional Partnerships Program, which had been subject to a report by the ANAO in November 2007.²

- 3.4 Also in May 2008, the Minister for Infrastructure, Transport, Regional Development and Local Government asked the House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government (the House Standing Committee) to investigate and report on options for the new regional funding program. On 5 November 2008, the House Standing Committee tabled an Interim Report on its inquiry into a new regional development funding program. The Committee's decision to issue an interim report stemmed from the Government accelerating its nation building agenda in response to the global financial crisis. The Committee's intention was for the recommendations of the Interim Report to help inform government decision-making as the Government considered the manner in which it would distribute funds for regional infrastructure projects.³
- 3.5 On 12 November 2008, one week after the House Standing Committee tabled its Interim Report, the Government decided to establish a \$300 million RLCIP comprising:
- \$250 million allocated amongst all councils (referred to as the Council Allocation component); and
 - \$50 million to fund high priority infrastructure projects with a value of greater than \$2 million that would be selected through a competitive, application-based process (referred to as the Strategic Projects component).
- 3.6 The Strategic Projects component is the subject of this audit report. A separate performance audit of the Council Allocation component was tabled in May 2011.⁴

2 ANAO Audit Report No. 14 2007-08, *Performance Audit of the Regional Partnerships Program*, Canberra, 15 November 2007.

3 House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government, *Funding regional and local community infrastructure: Principles for the development of a regional and local community infrastructure funding program*, Final Report, June 2009, p. 1.

4 Audit Report No. 42 2010-11, *The Establishment, Implementation and Administration of the Council Allocation Component of the Regional and Local Community Infrastructure Program*, was tabled on 18 May 2011.

Conduct of the 2009 application round

Initial call for applications

- 3.7 The initial call for applications for the first round⁵ of the Strategic Projects component was made on 21 November 2008, three days after the Program was announced. On that date, the Minister for Infrastructure, Transport, Regional Development and Local Government:
- released the Program Guidelines;
 - released the official timetable, which was intended to encourage local councils and shires to identify local projects as soon as possible so as to have funding released promptly;
 - announced that application forms for the \$50 million Strategic Projects component would be available (on the Department's website) later that day for projects seeking a minimum Commonwealth contribution of \$2 million or more; and
 - announced that complete applications must reach the Department by 23 December 2008.⁶
- 3.8 By 23 December 2008, DITRDLG had received 344 applications that sought some \$1.2 billion of Commonwealth funds for projects with an overall value of \$2.9 billion.

Program funding increased from \$50 million to \$550 million

- 3.9 In the context of the impact in Australia of the evolving global financial crisis, at its meeting on 28 January 2009, the Strategic Priorities and Budget Committee of Cabinet considered options to provide further economic stimulus through the Infrastructure, Transport, Regional Development and Local Government portfolio. Further discussion occurred after the Committee meeting between the Office of the then Prime Minister and the Office of the Minister for Infrastructure, Transport, Regional Development and Local Government. Subsequently, on 2 February 2009, the then Prime
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5 In June 2009, the then Prime Minister announced additional funding of \$120 million for the Strategic Projects component of the RLCIP, to be made available through a second competitive process. Subsequently, on 9 October 2009, the Minister for Infrastructure, Transport, Regional Development and Local Government announced that applications for round two of the Strategic Projects component were open and were due by 15 January 2010.

6 The Hon Anthony Albanese MP, Minister for Infrastructure, Transport, Regional Development and Local Government, *Guidelines Released for \$300 million Regional and Local Community Infrastructure Program*, Media Release, AA180/2008, 21 November 2008.

Minister wrote to the Minister for Infrastructure, Transport, Regional Development and Local Government:

- confirming the allocation of an extra \$500 million over two years to the Strategic Projects component of the RLCIP, with \$250 million to be allocated in 2008-09 and \$250 million in 2009-10; and
- reiterating the 28 January 2009 decision that priority was to be given to projects that could proceed quickly and for which co-investment from councils and other partners, such as State and Territory governments, was proposed.

Applications re-opened

3.10 On 13 February 2009, the Minister for Infrastructure, Transport, Regional Development and Local Government announced that the Government had secured the passage of the \$42 billion Nation Building and Jobs Plan legislation, which included the additional \$500 million for the Strategic Projects component of the RLCIP. The Minister's announcement also outlined that:

The Government will give local councils and shires the opportunity to submit new or revised applications for the Regional and Local Community Infrastructure Program – Strategic Projects.⁷

3.11 In the context of the Strategic Projects component having been increased from \$50 million in available funding to \$550 million, the Minister's announcement advised that councils had until 4pm Australian Eastern Daylight Saving Time, Friday 6 March 2009 to submit new or revised applications. It was further announced that the existing Program Guidelines would continue to apply.

3.12 By the revised closing date, a total of 484 applications were received seeking \$2.05 billion in Commonwealth funding compared with the \$550 million that was available.

Successful applications

3.13 The decision about which applications were to receive Program funding was made by Cabinet, in a meeting on 22 April 2009. Cabinet agreed to the recommendations of the Minister for Infrastructure, Transport, Regional

7 The Hon Anthony Albanese MP, Minister for Infrastructure, Transport, Regional Development and Local Government, *Rudd Government Secures Extra \$500 Million for Local Community Infrastructure – No thanks to Liberal and National Parties*, Media Release, AA28/2009, 13 February 2009.

Development and Local Government that a total of \$549.672 million be approved for 137 projects.⁸ The successful projects were publicly announced over the course of April and May 2009. Funding Agreements for 136 of the projects were signed during June 2009, with a total of nearly \$230 million in program funds paid before 30 June 2009. The final Funding Agreement was signed in late July 2009.

- 3.14 In respect to the program context and way in which it was delivered, in June 2010 the Department advised ANAO that:

The program was implemented during the global economic crisis and the Government's response to the emerging crisis. Between September 2008 and the 2009 Budget, the government dealt with an unfolding global and economic crisis which required senior Ministers to re-consider and adjust policy and program settings as the impacts of the crisis became clearer. This included considering projects which would not only provide an immediate economic stimulus but also provide community infrastructure investment for the recovery post 2010-11. The program changed significantly as the Government, through successive consideration of stimulus measures, expanded the program from \$50 million to \$550 million and adapted the timeframes and approach to assessment and delivery of the program.

Legislative framework

- 3.15 The Strategic Projects component of the RLCIP is a discretionary grants program. Commonwealth grant programs involve the expenditure of public money and are thus subject to applicable financial management legislation. Specifically, the *Financial Management and Accountability Act 1997* (FMA Act) provides a framework for the proper management of public money and public property. This framework includes requirements governing the process by which decisions are made about whether public money should be spent on individual grants, including those made under the Strategic Projects component.
- 3.16 While not affecting a Minister's right to decide on the allocation of grants, since December 2007, the financial framework applying to grants decision-

8 The total approved funding was subsequently reduced by \$117 000 to \$549 555 million, following the replacement of one of the approved projects with a different project, based on advice from the Minister for Infrastructure, Transport, Regional Development and Local Government to the then Prime Minister that there had been an error in the list of recommended projects provided to Cabinet.

making has been progressively enhanced. Two of the significant changes made on 14 December 2007 were to require that guidelines for any new grants program be considered by the Expenditure Review Committee of Cabinet; and Ministers were not to make any decisions on grants without first receiving departmental advice on the merits of each grant application relative to the guidelines for the program. These requirements remain in place.

- 3.17 In December 2008, prior to the re-opening of applications to the Strategic Projects component, the Government agreed to a range of measures to reform the administration of grants, including the development of an improved framework for grants administration. These decisions were made in response to the 31 July 2008 report of the *Strategic Review of the Administration of Australian Government Grant Programs* (Strategic Review of Grants). The Government's December 2008 decisions have now been reflected in the new policy framework for the administration of grant programs by agencies subject to the FMA Act that took effect from 1 July 2009.
- 3.18 Whilst the enhancements to the grants administration framework made in December 2007 applied to the design and implementation of the Strategic Projects component, the changes to the FMA Regulations and introduction of the Commonwealth Grant Guidelines (CGGs) occurred after projects had been approved for funding.

The ANAO Audit

Audit objectives

- 3.19 The audit was undertaken under section 18 of the *Auditor-General Act 1997*. The objective of the audit was to assess whether the Strategic Projects component of the RLCIP has been effectively designed and administered. Amongst other things, the audit examined the design of the Strategic Projects component; the processes by which applications were sought, assessed and successful projects approved for funding; and the extent to which timely economic stimulus has been provided through the funded projects.

Overall audit conclusion

- 3.20 In its overall audit conclusion the ANAO defined the objective of the Strategic Projects program:

The Strategic Projects component of the RLCIP was one of a number of programs introduced by the Australian government in response to the global financial crisis. Initially announced with funding of \$50 million, this was increased in January 2009 by a further \$500 million so as to increase stimulus spending in local communities as part of the Government's response to the global financial crisis. In addition to the intention of providing timely economic stimulus, the Program is also expected to provide longer term community infrastructure investment by funding additional projects not already underway, or additional stages of projects that were already underway.

The objectives of the RLCIP were to create local jobs and stimulate local economies in the short term and medium term. The Strategic Projects component was intended to contribute to this objective by directing funding towards a limited number of large strategic projects that were ready to proceed. Projects were to be allocated funding on a nationally competitive basis through an application process open to all local councils.⁹

- 3.21 The ANAO noted that despite a number of reports and reviews that have emphasised that 'potential applicants and other stakeholders have a right to expect that program funding decisions will be made in a manner, and on a basis, consistent with the published program guidelines and selection documentation' the Department failed to implement prioritisation and shortlisting criteria.¹⁰ Further the ANAO found that the Department failed to outline the assessment criteria that would be used to select the successful applicants.¹¹
- 3.22 The ANAO found that the Department had undertaken a risk assessment of the shortlisted projects but had failed to advise the Minister on which projects met the program guidelines:

While the risk assessment results were provided to its Minister, the department did not provide recommendations to the Minister

9 Audit Report No. 03 2010-11, p. 20.

10 Audit Report No. 03 2010-11, pp. 20-21.

11 Audit Report No. 03 2010-11, p. 21.

about which projects should be approved within the available funding of \$550 million. This was a significant failing on the part of the Department given that, since December 2007, the enhanced grants administration framework has required departments to provide advice to Ministers on the merits of each grant application relative to the guidelines for the program.¹²

3.23 The ANAO found that on 21 April 2009, the Minister's Office advised the Department of a list of 137 projects, which with small variations was consequently endorsed by Cabinet, that had been arrived at on the basis of one or more of the following criteria:

- geographic distribution of projects;
- likely economic stimulus and community impact, drawing on population sizes, capacity within local government authorities, percentage of partnership funding, and nature of projects; and
- whether alternative funding sources are available or have been provided.¹³

3.24 The ANAO found that applicants were not made aware of these selection criteria and that the process had not been adequately documented:

Whilst not inconsistent with the Program objectives and the published Guidelines, these criteria had not been published or otherwise advised to councils and other stakeholders. Further, there was no documented assessment of each application against the three criteria outlining: the extent to which each application had been assessed as satisfying each criterion; the information relied upon in making the assessment; or an overall assessment and ranking of each competing application.¹⁴

3.25 With regard to the geographical distribution of the recommended projects, the ANAO concluded:

... whilst the total amount of funding provided a reasonable geographic spread and was largely consistent with the proportion of electorates held by the major parties and Independent members, in terms of the number of applications, projects located in electorates held by the Australian Labor Party (ALP) and Independent Members were more successful at being awarded

12 Audit Report No. 03 2010-11, pp. 21-22.

13 Audit Report No. 03 2010-11, p. 23.

14 Audit Report No. 03 2010-11, p. 23.

funding than those located in electorates held by the Coalition parties.¹⁵

3.26 Overall the ANAO concluded:

The Strategic Projects component was publicised as being a nationally competitive discretionary grants program to which all councils were eligible to apply. In this light, the distribution of grants in respect to those councils who had applied for funding, combined with the absence of a documented assessment of each application in terms of the three criteria [see paragraph 3.23], means that the basis on which decisions were made to include, or exclude, particular applications to fit within the budget allocation was not clear. In particular, the reasons for the selection of 131¹⁶ of the 188 shortlisted applications, and non-selection of 57, shortlisted applications, were not apparent from the program documentation or subsequent advice. The reasons for the selection of the additional six projects were documented, although in each case the documented reasons either involved the waiving of Program eligibility criteria (two applications) or were based on indications of considerations that were not included in the Program Guidelines as being relevant to the selection of projects (four applications).

To improve the transparency of grants approval processes,¹⁷ the financial framework applying to funding decisions for grants was subsequently enhanced by the Government with effect from 1 July 2009 to require decision-makers to record the substantive reasons for their approval, having regard for the relevant statutory

15 Audit Report No. 03 2010-11, p. 24.

16 Of the 137 projects approved for funding, 131 were selected from the list of applications shortlisted by the department and categorised as 'recommended subject to available funding', one had been shortlisted but the department considered it represented too high a risk for funding, another had also been shortlisted but the risk assessment had identified it as being ineligible and the remaining four had not been shortlisted but a risk assessment was subsequently undertaken at the request of the Minister.

17 The Strategic Review of Grants commissioned by the Government concluded that, given the fundamental importance of the approval process in relation to the expenditure of public funds, and for accountability purposes, it is critical that agencies have a clear understanding and record of Ministerial decisions, and their reasons. Consistent with an earlier ANAO recommendation, the review recommended that decision-makers be required to document the basis on which the approver was satisfied that the proposed expenditure represented an efficient and effective use of public money, and was in accordance with the relevant policies of the Commonwealth. Source: *Strategic Review of the Administration of Australian Government Grant Programs*, pp. 9 and 67-68.

obligations that regulate the approval of spending proposals, in addition to the factual terms of the approval. This reinforces the obligation, first introduced in December 2007, for departments to provide advice on the merits of each grant application in order to allow projects to be selected for funding having regard to the best outcomes from the expenditure of public moneys, relevant legislation and government policies.

Following approval of each of the projects, the Department worked expeditiously to develop and sign Funding Agreements, and make the initial upfront payments. These steps were necessary to allow projects to commence and thus generate economic stimulus. Subsequently, the department implemented procedures to monitor project commencement and progress as reported to it by councils.¹⁸

3.27 With regard to the provision of timely economic stimulus, the ANAO found that the RLCIP 'had not provided the planned level of stimulus in the timeframe that had been budgeted at the time it was introduced'¹⁹ as indicated by the following:

- the program timetable involved Funding Agreements being signed in June 2009 with a requirement that construction commence within six months of Funding Agreement execution. On the basis of the reporting to the Department by councils, 75 per cent of the 137 projects approved for funding in April 2009 had commenced construction within six months of the Funding Agreement being signed but ANAO analysis is that this reporting is not sufficiently reliable. Rather, the best available indicator of project commencement and progress relates to expenditure by councils on the approved project;
- to enable construction work to commence as soon as possible, significant upfront payments (between 25 per cent and 50 per cent of the grant amount) were paid to councils upon signing of Funding Agreements. However, there have been significant delays in these payments being used together with delays in projects progressing such that further payments have been delayed.²⁰ By 31 March 2010, total grant payments made had risen to some \$277 million but these payments remained nearly \$130 million (32 per cent) below the level that should have been

18 Audit Report No. 03 2010-11, pp. 25-26.

19 Audit Report No. 03 2010-11, p. 27.

20 For example, had projects been proceeding in accordance with the Funding Agreement milestones, milestone payments of \$83 million would have been made by 31 December 2009. However, actual milestone payments made to that date totalled less than \$9 million, some 90 per cent lower than planned.

paid had projects commenced and been progressing in accordance with the milestones specified in the respective Funding Agreements; and

- the reported use of Program funding was minimal in the first six months of 2009-10. There has been no marked improvement in this situation in the period to 30 June 2010 such that councils had reported to the Department that they had spent some \$142 million of the \$438.5 million that had been paid to them (some 68 per cent of funds had yet to be reported as spent). In April 2010 the Department changed its payment practices so as to increase the amount of funds being paid to councils, but this has not meant that there has been any acceleration in the rate at which funding is being spent by councils.²¹

3.28 In summary the ANAO concluded:

The relatively low level of program expenditure to date reflects the situation that a large proportion of the projects approved for funding were not ready to proceed; were planned to be delivered over a longer timeframe than that necessary to provide timely stimulus; and/or involved high project delivery risks which have been realised. The consequence has been that, whereas the Strategic Projects component was budgeted to have paid out \$300 million in 2008-09 and the remaining \$250 million in 2009-10 and each of the 137 Funding Agreements (as originally signed) required that projects would have proceeded sufficiently so as to allow all Commonwealth funding be paid on or before 30 June 2010, a significant rephrasing of funds (\$112 million) from 2009-10 to 2010-11 has been necessary.²²

ANAO recommendations

Table 3.1 ANAO recommendations, Audit Report No. 03 2010-11

1.	ANAO <i>recommends</i> that the Department of Infrastructure, Transport, Regional Development and Local Government improve the effectiveness of its risk management practices in assessing applications to grant programs by clearly discriminating between those risks that should be addressed before the application is considered for approval, those that require appropriate treatment prior to a Funding Agreement being executed and those that can be managed through a Funding Agreement.
DITRDLG response: Agreed.	
2.	ANAO <i>recommends</i> that, in the design of future grants programs, the

21 Audit Report No. 03 2010-11, pp. 27-28.

22 Audit Report No. 03 2010-11, pp. 29-30.

Department of Infrastructure, Transport, Regional Development and Local Government develop for Ministerial consideration clearly defined selection criteria that will be published in the program guidelines and applied in the assessment of grant applications.

DITRDLG response: Agreed.

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3. ANAO *recommends* that, in the design of future grant programs, the Department of Infrastructure, Transport, Regional Development and Local Government give more consistent support to the achievement of key program objectives by:
- (a) obtaining information from project proponents on the extent to which their proposal is expected to contribute to program objectives;
 - (b) analysing the outcomes information submitted by proponents so that funding decisions can be informed by a robust assessment of the merits of competing proposals; and
 - (c) through the Funding Agreement, requiring funding recipients to report on progress toward, and the final achievement of, the anticipated project outcomes that informed the decision to award funding.

DITRDLG response: Agreed.

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4. ANAO *recommends* that, in the interests of having program expenditure better reflect its substantive economic effect, the Department of Infrastructure, Transport, Regional Development and Local Government identify opportunities in future grant programs to tie payments to proponents more closely to the cash flow needs of approved projects.

DITRDLG response: Agreed.

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5. ANAO *recommends* that, given the importance to economic stimulus outcomes of minimising lags between Program payments to councils and use of these funds by councils, the Department of Infrastructure, Transport, Regional Development and Local Government publicly report against key performance indicators for the Strategic Projects component of the Regional and Local Community Infrastructure Program, including the extent to which program funds paid to councils have been spent.

DITRDLG response: Agreed.

The Committee's review

- 3.29 The Committee held a public hearing on Monday 21 March 2011, with the following witnesses:
- Australian National Audit Office (ANAO);
 - Department of Infrastructure and Transport (DIT); and
 - Department of Regional Australia, Regional Development and Local Government (DRARDLG).²³

²³ Due to machinery of government changes following the election in August 2010, the responsibility for the RLCIP shifted to the DRARDLG.

3.30 The Committee took evidence on the following issues:

- assessment criteria;
- transparency;
- Regional Development Australia Fund (RDAF) Guidelines;
- value for money;
- ongoing controversy with regional grant programs;
- lessons learnt;
- support to councils during the application process;
- completion dates;
- local government asset maintenance programs;
- risk management practices; and
- monitoring program objectives.

Assessment criteria

3.31 The ANAO found that, contrary to best practice, the published Program Guidelines for the Strategic Projects component of the RLCIP, did not 'advise councils of the criteria that would be used to develop a ranked list of eligible applications'.²⁴ The Committee asked the DRARDLG why it had failed to provide clear, published assessment criteria for the Program.

3.32 DRARDLG told the Committee that the pressure of implementing the program during the global financial crisis had contributed significantly to the Department's inability to follow established guidelines in this regard. DRARDLG explained that the expansion of the program to provide stimulus measures to the Australian economy created a tight timeframe and difficult operating environment.²⁵ The Department felt that:

In the circumstances, guidelines were established and, in effect, the best possible job was done.²⁶

24 Audit Report No. 03 2010-11, p. 92.

25 Mr Gordon McCormick, Assistant Secretary, Local Government Programs, Department of Regional Australia, Regional Development and Local Government (DRARDLG), *Committee Hansard*, Canberra, 21 March 2011, p. 12.

26 Mr McCormick, DRARDLG, *Committee Hansard*, Canberra, 21 March 2011, p. 12.

- 3.33 The ANAO acknowledged the context of the global financial crisis but maintained that it did not negate the need for clear assessment criteria to inform the Department's decisions.²⁷ Rather than saving time, the ANAO explained that a lack of assessment criteria can significantly add to the time required to identify eligible applications.²⁸ The ANAO told the Committee that the absence of clear criteria forces the Department to create the process as a program progresses:

That can be a more difficult exercise and a more time consuming exercise than having upfront, very clear criteria which, amongst other things, has been shown over time to make it less likely you will get applications for projects you do not want. Therefore, if you are focusing the applications down it can make it less work for you which, if you are in a hurry to get projects approved to stimulate the economy, is actually a benefit rather than a disbenefit.²⁹

- 3.34 Further, the ANAO told the Committee that a lack of published assessment criteria wastes the time of stakeholders, many of whom have limited resources. By way of example, the ANAO explained to the Committee that with regard to the RLCIP Strategic Projects program, the unpublished short-listing criteria excluded local government authorities with a population of less than 5000 people. Councils with between five and 10000 people were only eligible for eight of the funding categories.³⁰ The ANAO reiterated that the lack of published assessment criteria led to smaller, ineligible councils wasting their resources on unsuccessful applications:

If that was said to people upfront, these councils would not have wasted their time and energy applying for money – for which they could never be successful – if they were told, 'If you are less than 5000 people, you will not get any money'. To us that is an important lesson for any stimulus program and, in fact, any grants program. By being up front, (a) you will not waste the stakeholders' money and (b) you will narrow down your amount of work for how many applications you need to assess if you do not want these ones.³¹

27 Mr Brian Boyd, Executive Director, Performance Audit Services Group, Australian National Audit Office (ANAO), *Committee Hansard*, Canberra, 21 March 2011, p. 12.

28 Mr Boyd, ANAO, *Committee Hansard*, Canberra, 21 March 2011, p. 13.

29 Mr Boyd, ANAO, *Committee Hansard*, Canberra, 21 March 2011, p. 13.

30 Mr Boyd, ANAO, *Committee Hansard*, Canberra, 21 March 2011, p. 18.

31 Mr Boyd, ANAO, *Committee Hansard*, Canberra, 21 March 2011, p. 18.

Transparency

- 3.35 The ANAO noted that in April 2009, the Minister approved 131 of the 188 applications shortlisted for the Strategic Projects component of the RLCIP by the Department.³² However, the ANAO found that the reasons for the selection were not apparent and that there was no documentation or records either with the Minister's office or the Department.³³ The Committee expressed concern at the lack of transparency suggested by this finding and asked ANAO to comment on the apparent lack of process.
- 3.36 The ANAO reiterated the importance of assessment criteria, not only to assist stakeholders to submit targeted applications, but to assist departments to assess applications and provide advice to ministers.³⁴ The Audit Office emphasised that a 'record of the factors which have influenced the department's recommendations to government for particular projects' is essential for transparency.³⁵
- 3.37 The Committee asked DRARDLG to comment on the same issue. The Department admitted that it had been 'remiss' in not applying the assessment criteria but was adamant that the oversight was due to time constraints rather than a deliberate flouting of best practice.³⁶ Further DRARDLG told the Committee that the Department has taken steps to ensure the failure will not occur in the future by implementing all of the ANAO recommendations in the new Regional Development Australia Fund Guidelines.³⁷

Regional Development Australia Fund (RDAF) Guidelines

- 3.38 The Committee asked the ANAO if it had assessed the new Regional Development Australia Fund Guidelines released by DRARDLG in March 2011, particularly whether or not the Guidelines addressed the issue of clearly defined assessment criteria. The ANAO told the Committee that the new Guidelines satisfactorily addressed the issue, providing 'good guidance to applicants' regarding the program's requirements.³⁸ The

32 Audit Report No. 03 2010-11, p. 162.

33 Audit Report No. 03 2010-11, p. 26.

34 Mr Ian McPhee, Auditor-General, Australian National Audit Office (ANAO), *Committee Hansard*, Canberra, 21 March 2011, p. 12.

35 Mr McPhee, ANAO, *Committee Hansard*, Canberra, 21 March 2011, p. 12.

36 Mr Justin Hanney, Deputy Secretary, DRARDLG, *Committee Hansard*, Canberra, 21 March 2011, p. 13.

37 Mr. Hanney, DRARDLG, *Committee Hansard*, Canberra, 21 March 2011, p. 13.

38 Mr Boyd, ANAO, *Committee Hansard*, Canberra, 21 March 2011, p. 13.

ANAO added that 'if well implemented' the new Guidelines would provide a 'much better outcome, from our perspective, for a grants program'.³⁹

- 3.39 The Committee inquired if existing projects were now operating under the new Guidelines. DRARDLG told the Committee that these projects were 'still operating under the current guidelines'.⁴⁰ Asked if there had been any change in the implementation phase of the existing projects, the Department told the Committee that the projects were largely implemented by the time the audit report was produced and improvements could not be applied retrospectively.⁴¹

Value for money

- 3.40 The ANAO found that, with regard to the provision of economic stimulus, there was a marked discrepancy between the scheduled payment to local government authorities, the actual payments made to the authorities and the expenditure payments reported by authorities.⁴² The ANAO noted that releasing funds to local government authorities before milestones had been met or previous funds spent, was detrimental to the stimulus response of the program.⁴³ The Committee is concerned that this departure from accepted practice implies that local communities have not received the full benefit of the grants funding and asked DRARDLG for evidence that the Australian taxpayer is receiving value for money on these projects.
- 3.41 The Department acknowledged the issue identified by the audit report and assured the Committee that the new RDAF Guidelines ensure that, in future, payments will only be made when previous payments have been fully expended or committed.⁴⁴ DRARDLG explained that in departing from normal practice, the Department had been mindful that local government authorities often have difficulty with cash flow and that DRARDLG was attempting to circumvent the problem by providing payments ahead of time.⁴⁵

39 Mr Boyd, ANAO, *Committee Hansard*, Canberra, 21 March 2011, p. 13.

40 Mr McCormick, DRARDLG, *Committee Hansard*, Canberra, 21 March 2011, p. 16.

41 Mr McCormick, DRARDLG, *Committee Hansard*, Canberra, 21 March 2011, p. 16.

42 Audit Report No. 03 2010-11, pp. 227-230.

43 Audit Report No. 03 2010-11, pp. 230-231.

44 Mr McCormick, DRARDLG, *Committee Hansard*, Canberra, 21 March 2011, p. 13.

45 Mr Hanney, DRARDLG, *Committee Hansard*, Canberra, 21 March 2011, p. 14.

- 3.42 DRARDLG also informed the Committee that the new RDAF Guidelines clearly define value for money and set out the measurement criteria by which value for money will be assessed for future projects.⁴⁶

Ongoing controversy with regional grants programs

- 3.43 The Committee recognises the benefits of regional grants programs and asked DRARDLG to comment on the ongoing controversy and apparent difficulties with delivery experienced by these programs. The Department identified the problems associated with demand and supply, with demand always outstripping supply, as a major contributor to the difficulties.⁴⁷ Assessing the variety of projects across local government authorities also presents a challenge for the Department:

When you are measuring one rural local government's projects often the projects are very different projects, so it is not comparing one hospital to another hospital but comparing a swimming pool to an arts centre to a road. So there is comparison of these projects and then the depth in terms of how you measure the value of something to one community versus another community.⁴⁸

- 3.44 The ANAO also identified the discrepancy between demand and supply as the source of most contention and reiterated the need for clearly defined assessment criteria to alleviate the problem:

It is not unusual to see a program oversubscribed by four, five, or 10 times. That is where, from our perspective, the real issue then becomes: if the program funding is such that it cannot meet all of the demand, the process that is adopted by the government is important in actually working through an open, transparent, accountable process of narrowing down which are the most meritorious applications for this program to deliver on its intended outcomes to the communities which are being targeted.⁴⁹

Lessons learnt

- 3.45 The Committee asked if the lessons learnt from the implementation of this program as a stimulus measure have helped to improve any future

46 Mr Hanney, DRARDLG, *Committee Hansard*, Canberra, 21 March 2011, p. 14.

47 Mr Hanney, DRARDLG, *Committee Hansard*, Canberra, 21 March 2011, p. 14.

48 Mr Hanney, DRARDLG, *Committee Hansard*, Canberra, 21 March 2011, p. 14.

49 Mr Boyd, ANAO, *Committee Hansard*, Canberra, 21 March 2011, p. 14.

government response to a similar situation. DRARDLG told the Committee that the relevant guidelines had been improved by successive audit reports, including the latest one, and that the Department was better prepared to implement such a program quickly:

If there was to be a very quick program picked up to distribute funds in the same way, then I think the Department is in a much better position, from lessons learnt, to be able to apply that funding.⁵⁰

- 3.46 DRARDLG also indicated the improvements by the implementation of the Regional Development Advisory Committees (RDACs).⁵¹ These Committees have substantially improved communication between the Department and local government authorities fostering a better understanding of both the Department's requirements and regional priorities. The direct result has been a more effective and efficient implementation of the grants process.⁵²

Support to councils during application process

- 3.47 The Committee recognises the difficulties faced by smaller local government authorities negotiating the grants application process, particularly the lack of access to relevant expertise. The Committee asked DRARDLG what steps government agencies could take to assist local government authorities to prepare applications.
- 3.48 DRARDLG acknowledged the difficulties faced by local government authorities in this regard and told the Committee the Department has implemented measures to address the issue. DRARDLG advised that, acting on probity advice, it has developed two separate areas in the Department: one section administers the RDAF program and the other, based in the regions, provides advice to local government authorities.⁵³ The Department emphasised that the field staff are not involved in the assessment of projects and so are free to provide assistance and advice as required.⁵⁴
- 3.49 DRARDLG told the Committee that the field staff will complement the RDACs in providing assistance to local government authorities.⁵⁵

50 Mr Hanney, DRARDLG, *Committee Hansard*, Canberra, 21 March 2011, p. 15.

51 Mr Hanney, DRARDLG, *Committee Hansard*, Canberra, 21 March 2011, p. 15.

52 Mr Hanney, DRARDLG, *Committee Hansard*, Canberra, 21 March 2011, p. 16.

53 Mr Hanney, DRARDLG, *Committee Hansard*, Canberra, 21 March 2011, pp. 16-17.

54 Mr Hanney, DRARDLG, *Committee Hansard*, Canberra, 21 March 2011, p. 17.

55 Mr Hanney, DRARDLG, *Committee Hansard*, Canberra, 21 March 2011, p. 17.

However, the Committee noted that without operational support and funding the role of the RDACs would not be effective.

- 3.50 The ANAO also noted that local government authorities would benefit from more detailed feedback on their unsuccessful applications. The ANAO pointed out that the standard letter sent to unsuccessful applicants did not provide sufficient information and suggested a more comprehensive process would be useful:

If there is something significantly wrong with their application, they do not get told unless they work through the difficult process of finally getting someone to give them telephone feedback and so forth.⁵⁶

Completion dates

- 3.51 The ANAO found that there had been a considerable lag in the expected completion date of projects and that there were significant discrepancies between the amount of funds paid to recipients and the amount expended by the recipients.⁵⁷ The ANAO reiterated that failure to tie payments to the cash flow needs of projects was detrimental to the proposed economic stimulus objective of the program.⁵⁸

- 3.52 The Committee asked DRARDLG what had been done to redress the lag and to provide an update on the expected completion date of projects. The Department told the Committee that it had been working with local government authorities to address the issue:

In the development of these projects, we have been working closely with councils to identify practical completion dates and where there have been instances where they had to be varied we have sought approval and varied the funding agreements to reflect the practical dates.⁵⁹

- 3.53 DRARDLG provided the Committee with the following graph which indicates that project completion and grant expenditure is expected to meet the due date of July 2012.

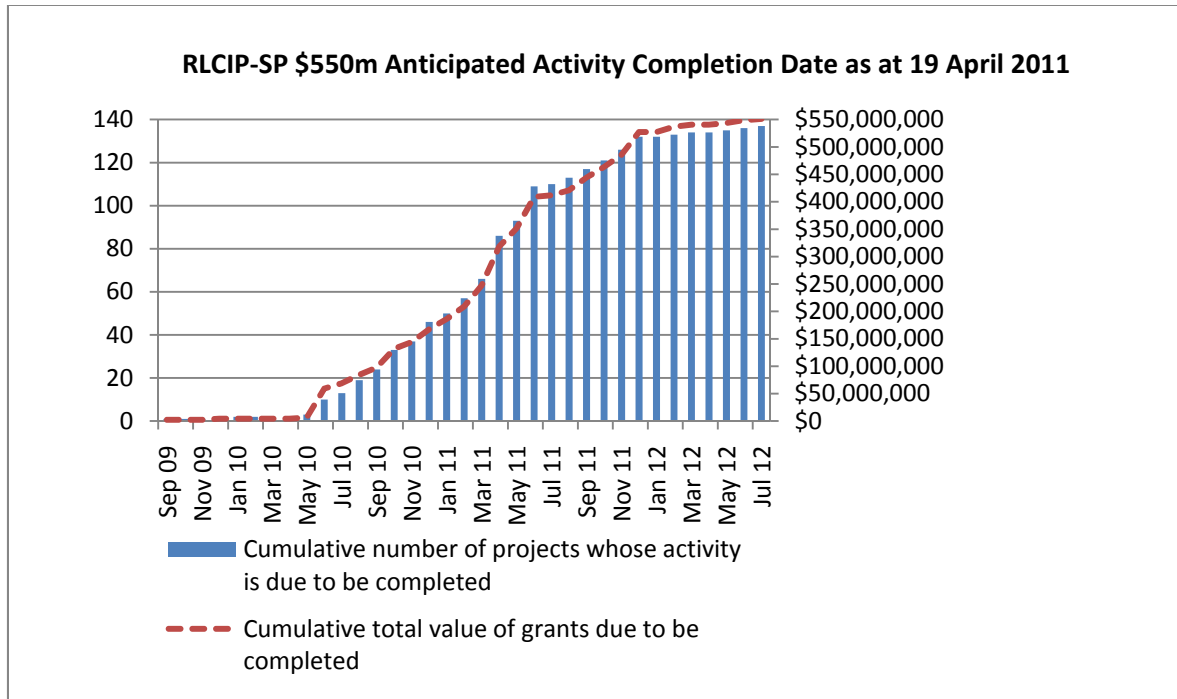
56 Mr Boyd, ANAO, *Committee Hansard*, Canberra, 21 March 2011, p. 18.

57 Audit Report No. 03 2010-11, pp. 225-226.

58 Audit Report No. 03 2010-11, pp. 226-227.

59 Mr McCormick, DRARDLG, *Hansard Committee*, Canberra, 21 March 2011, p. 17.

Figure 3.1 RLCIP-SP \$550m Anticipated Activity Completion Date as at 19 April 2011



Source DRARDLG Submission 13

3.54 The Committee asked DRARDLG what impact the recent natural disasters, particularly the cyclone and floods in Queensland, may have had on projects. The Department told the Committee that it had not received any information suggesting major delays to projects:

Councils have informed the Department that there have been some minor delays to RLCIP Strategic Projects as a result of the floods, or as a result of a redistribution of resources to flood relief efforts, but no major variations have been requested as at 21 April 2011.⁶⁰

Local government asset maintenance programs

3.55 The Committee raised the issue of local government asset maintenance programs, particularly with regard to local roads and timber bridge programs, and asked DRARDLG what planning, if any, is in hand to deal with this problem. The Committee expressed concern that local government authorities have to focus all of their available resources on the

⁶⁰ DRARDLG, *Submission 13*, p. 2.

maintenance of these assets and cannot consider participating in such programs as the RLCIP Strategic Projects program.

3.56 The Department assured the Committee that the new RDAF Guidelines include the ‘capacity for local governments to apply for bridge funding’.⁶¹ DRARDLG explained that the quality of asset management planning differed considerably across local government authorities and the primary focus of the Department was to promote better planning by councils and the implementation of satisfactory asset management strategies.⁶² To this end, the Department encourages local government authorities to not only identify eligible infrastructure projects but determine the broader importance of those projects:

... what we would be testing for is if we simply get 50 applications from a municipality to replace their timber bridges, have they actually thought through which of them are critical social infrastructure or economic infrastructure and those other assessments. It is trying to tackle not just the end product but also to get the thinking and the strategy right so there was good science sitting behind those.⁶³

3.57 Additional, DRARDLG provided the Committee with the following information regarding projects funded under the Local Government Reform Fund (LGRF) to assist local government authorities with asset management:

Table 3.2 LGRF – Phase one projects – Treasury administered

Recipient	Project title	Committed LGRF over 2010/11 2011/12
New South Wales Government	Local government asset management and financial management project	\$3,250,000
Northern Territory Government and the Local Government Association of the NT	Local government capacity building project	\$1,350,000

61 Mr Hanney, DRARDLG, *Committee Hansard*, Canberra, 21 March 2011, p. 20.

62 Mr Hanney, DRARDLG, *Committee Hansard*, Canberra, 21 March 2011, pp. 19-20.

63 Mr Hanney, DRARDLG, *Committee Hansard*, Canberra, 21 March 2011, p. 20.

Queensland Government and Local Government Association of Qld	Advancing asset management in local government	\$2,695,000
South Australian Government and Local Government Association of SA	Improving SA councils' asset and financial management practices	\$1,650,000
South Australian Government and local government bodies	Adelaide integrated design strategy	\$1,000,000
Local Government Association of Tasmania	Long term asset and financial management planning for all Tasmanian councils	\$870,000
Southern Tasmanian Councils Authority	Independent review of structures for local governance and service delivery in southern Tasmania	\$150,000
Tasmanian Government and Southern Tasmanian Councils Authority	Future-proofing Tasmania's councils: a regional and land use based approach to climate change adaptation	\$400,000
Victorian Government and Municipal Association of Victoria	Local government sustainability project	\$964,000
Victorian Government and Municipal Association of Victoria	Local government regional asset management services project	\$1,404,000
Western Australian Government	Integrated strategic planning, financial management and asset management in local government	\$2,351,000
Australian Capital Territory	Development of an asset and financial management planning framework	\$437,000
	Total	\$16,521,000

Source DRARDLG, Submission 13

Risk management practices

3.58 The ANAO was critical of DRARDLG's attempt to manage project risk through Funding Agreements and recommended that the Department improve the effectiveness of its risk management practices.⁶⁴ The Committee asked DRARDLG what steps had been taken to implement this recommendation.

64 Audit Report No. 03 2010-11, p. 144.

- 3.59 The Department informed the Committee that, consistent with the Commonwealth Grant Guidelines, under the current RDAF, DRARDLG has:
- established an assessment process clearly related to program objectives. Assessments will be carried out by the Department and an Independent Advisory Panel; and
 - made project risk a specific element to be managed through the life of the project from pre-contract conditions through Funding Agreement establishment to project acquittal.⁶⁵

Monitoring program objectives

- 3.60 The ANAO found that DRARDLG had not specified the need to meet the program objectives in the selection criteria and had not included provisions in Funding Agreements to collect data to monitor and evaluate whether or not program objectives were being met.⁶⁶ The ANAO recommended that the Department improve these areas in future grants program.⁶⁷ The Committee asked DRARDLG what steps had been taken to implement this recommendation.
- 3.61 The Department informed the Committee that this issue had been addressed in the new RDAF Guidelines:
- the program guidelines identify program objectives and frame specific eligibility and selection criteria against these;
 - all projects will be assessed for alignment with program objectives, for viability and for risk; and
 - project reporting will occur at least bi-monthly against agreed milestones. The available data will enable timely monitoring of overall program progress against objectives.⁶⁸

Committee comment

- 3.62 While the Committee acknowledges the time pressures exerted as a result of the global financial crisis on the implementation of the RLCIP Strategic Projects program, it does not concede that these pressures excused the Department from adhering to a minimum standard of practice that would

65 DRARDLG, *Submission 13*,

66 Audit Report No. 03 2010-11, pp. 205 and 208.

67 Audit Report No. 03 2010-11, p. 210.

68 DRARDLG, *Submission 13*, p. 4.

ensure transparency throughout the grants administration process. On the contrary, the Committee would have expected the Department to adhere to basic grants administration processes particularly in light of the lessons learnt from previous Parliamentary and ANAO scrutiny. This suggests to the Committee that the Department has not taken its previous assurances to implement and adhere to improved grants administration seriously.

- 3.63 In this regard, the Committee wishes to register its dissatisfaction with the Department's failure to provide clear, published assessment criteria for the program. The consequences in terms of wasted time and resources cannot be justified.
- 3.64 The Committee understands that the lack of published assessment criteria contributed directly to the oversubscription of the program. The processes put in place to rectify the situation do not appear to have provided the Minister with clear recommendations regarding the eligibility or otherwise of applications. The Committee is concerned that DRARDLG did not provide the Minister with clear, documented advice on which to base their decisions.
- 3.65 Overall, it is the lack of documentation surrounding the final selection of successful applications that is of greatest concern to the Committee as it signals a lack of accountability and transparency. The Committee draws attention to the financial framework requirements, in place since December 2007, regarding the need for Ministers to obtain agency advice on the merits of each proposed grant before making decisions. If this advice is not documented there is no way for the Parliament or the public to be sure that due process has been followed.
- 3.66 The Committee is also concerned with the ANAO finding that the Strategic Projects program did not provide the expected economic stimulus. In particular, the Committee is critical of the fact that DRARDLG went against its own better practice standards and did not align payments with proponent's expenditure or outcomes and achievement. Although the Committee accepts the Department's assurance that it has responded to the ANAO concerns and that in future payments will only be made when previous funding has been fully expended, it warns DRARDLG that the JCPAA will take particular note of this issue when examining future programs.
- 3.67 The Committee welcomes DRARDLG's assurances that it is now better placed to deal with any future event that produced similar pressures on grants administration to those experienced during the global financial crisis pressures. The Committee accepts the Department's assurance that it

has implemented relevant processes and practices to improve its performance through addressing the ANAO's recommendations.

- 3.68 The Committee also welcomes the new RDAF Guidelines and accepts the ANAO's assurance that the Guidelines address the issues identified in this audit. However, if the Committee finds similar failings in grants administration in the future, either in this Department or across the APS more broadly, it will not look on the findings favourably.
- 3.69 The Committee recognises the difficulties faced by some local government authorities in complying with stringent application requirements due to lack of access to necessary expertise. Consequently, the Committee supports any attempts to ensure assistance is provided to local government authorities in this regard, including the provision of adequate operational funding for RDACs.
- 3.70 The Committee stresses the need for adequate feedback to unsuccessful applicants and encourages the Department to put in place processes to ensure that applicants have easy access to such feedback.
- 3.71 The Committee accepts the reassurance from the ANAO that the recommendations from this audit have been largely implemented but reiterates its ongoing concern with the recurring difficulties identified by the ANAO in grants administration more broadly. The Committee urges relevant departments across the APS to observe best practice in this area and to consult the ANAO wherever possible to ensure more effective implementation, monitoring and evaluation.

Audit Report No. 11 2010-11

Direct Source Procurement

Introduction¹

Legislative and policy framework

- 4.1 Effective procurement of property and services underpins the delivery of programs by Australian Government agencies. In 2009, the Australian Government purchased over \$23.5 billion in property and services using relatively straightforward or short-term procurement, through to more complex and longer term procurement.² Agencies purchased a wide variety of goods and services, including enabling assets such as buildings, printers and information and communications technology; and services such as consultancy advice on program management, and provision of government services to the public by external suppliers.

1 The following information is taken from Audit Report No. 11 2010-11, *Direct Source Procurement*, pp. 15-18.

2 The value of purchased property and services was sourced from AusTender data for the 2009 calendar year. This data includes contracts valued at \$10 000 and over, based on a contract start date in 2009. Data was supplied by the Department of Finance and Deregulation on 7 January 2010, and includes agencies subject to the *Financial Management and Accountability Act* (FMA Act) 1997 and bodies subject to the *Commonwealth Companies and Authorities Act* (CAC Act) 1997.

- 4.2 Chief Executives of departments and agencies subject to the *Financial Management and Accountability Act 1997* (FMA Act) must promote the proper use of Commonwealth resources.³ To help achieve this, under the *Financial Management and Accountability Regulations 1997* (FMA Regulations), the Finance Minister issues Commonwealth Procurement Guidelines (CPGs) for officials to follow when performing duties in relation to procurement (Regulation 7).⁴ FMA Regulation 9 also requires that approvers of spending proposals be satisfied, after undertaking reasonable inquiries, that the spending proposal provides for the proper use of Commonwealth resources.
- 4.3 The CPGs establish the core policy framework and articulate the Government's expectations for procurement.⁵ The last substantial revision of the CPGs occurred in January 2005, and gave effect to the Australian Government's procurement obligations under the Australia-United States Free Trade Agreement.⁶ Among the changes was a general presumption of open tendering for higher value procurements, which meant that selective and limited tendering was only available in specific and appropriately justified circumstances. It was anticipated that the dominant impact of the revised CPGs would be to increase the number and scope of procurement opportunities offered to the full market by Australian Government agencies.⁷
- 4.4 The current CPGs establish procurement principles that apply to all procurement processes, and promote value for money as the core principle of the Government's procurement policy framework.⁸ Value for money is enhanced and complemented by other key principles – encouraging competition; efficient, effective and ethical use of resources; and accountability and transparency in decision-making. Applying these procurement principles is a requirement of the CPGs, and necessitates that

3 Proper use of Commonwealth resources means efficient, effective and ethical use that is not inconsistent with the policies of the Commonwealth. FMA Act, section 44(3).

4 The CPGs are known as Department of Finance and Deregulation (Finance), Financial Management Guidance (FMG) No. 1 *Commonwealth Procurement Guidelines*, December 2008. The CPGs may also apply, following a direction by the Minister for Finance, to Commonwealth entities subject to the CAC Act listed in Schedule 1 of the *Commonwealth Authorities and Companies Regulations 1997* as being subject to Section 47A of the CAC Act. This audit did not include an examination of entities subject to the CAC Act.

5 Finance, CPGs, 2008, p. 2.

6 As outlined in footnote 4, the current version of the CPGs was issued in December 2008.

7 The Hon Dr Sharman Stone MP (the then Parliamentary Secretary to the Minister for Finance and Administration, Federal Member for Murray), Media Release 04/2004, *\$200 billion US procurement market open to Australian suppliers from January 1, 2005*, 31 December 2004.

8 Finance, CPGs, 2008, p. 9.

agencies take a considered approach when establishing arrangements for individual procurements.

- 4.5 For higher value procurements (known as covered procurements, and generally valued at more than \$80 000), the CPGs also establish Mandatory Procurement Procedures (MPPs).⁹ The MPPs establish a range of prescriptive obligations that must be complied with when selecting a procurement method and managing the resultant procurement process.
- 4.6 Under the CPGs, agencies are obliged to maintain appropriate documentation for each procurement. The appropriate mix and level of documentation depends on the nature and risk profile of procurement being undertaken. Agencies need to ensure there is sufficient documentation to provide an understanding of the reasons for the procurement, the process that was followed and all relevant decisions, including approvals and authorisations, and the basis of those decisions.¹⁰
- 4.7 The CPGs guide agencies to establish Chief Executive Instructions (CEIs) and operational guidelines outlining their own approach to procurement, while at the same time encouraging agencies to adopt processes that are commensurate with the scale and risk profile of the procurement. This sentiment was also supported by Management Advisory Committee (MAC) Report No. 7,¹¹ which outlined the minimum requirements to meet the Government's legislative and policy framework applicable to procurement. The MAC suggested that agencies only adopt processes in addition to the CPGs in specific circumstances, where the benefits of doing so outweigh the associated costs.¹² More recently, the Advisory Group on Reform of Australian Government Administration reiterated that agencies need to reduce internal red tape to promote efficiency, including streamlining administrative and legislative compliance in areas such as financial management.¹³

9 Covered procurement are generally procurements in excess of the procurement thresholds of \$80 000, or \$9 million for construction services, except where the property or services are exempted by Appendix A of the CPGs.

10 Finance, CPGs, 2008, p.18, paragraph 7.9. Refer also to Audit Report No. 11 2010-11, Appendix 6: Documentation obligations, requirements and sound practices.

11 MAC, Report No. 7, *Reducing Red Tape in the Australian Public Service*, 2007, pp. 25-26 and 30.

12 MAC, Report No. 7, *Reducing Red Tape in the Australian Public Service*, 2007, p. 26.

13 Advisory Group on Reform of Australian Government Administration, *Ahead of the Game – Blueprint for Reform of the Australian Government Administration*, March 2010, p. 66.

Direct Source procurement

- 4.8 The CPGs and related Department of Finance and Deregulation (Finance) guidance define three procurement methods: Open Tender, Select Tender and Direct Source procurement. Direct Source procurement is a process in which an agency may invite a potential supplier or suppliers of its choice to make submissions such as quotes or tenders. By its nature, Direct Sourcing is less competitive than Open and Select Tendering as it does not provide the opportunity for all or, in many instances, a number of potential suppliers to compete for the provision of property and services.
- 4.9 For covered procurement, the CPGs require that Direct Sourcing only be undertaken in a limited number of specified circumstances, such as when an approach to the market has failed.¹⁴ For non-covered procurement, agencies should conduct an appropriately competitive procurement process commensurate with the scale, scope and relative risk of the procurement.¹⁵ In all cases, agencies need to be mindful that it is generally more difficult to adhere to the procurement principles such as value for money, encouraging competition and ethical use of resources when Direct Sourcing, but under the CPGs the onus is on them to do so.¹⁶

The ANAO Audit

Audit objective¹⁷

- 4.10 The objective of the audit was to assess how well agencies had implemented the CPGs and relevant FMA legislation when undertaking Direct Source procurement.

14 The circumstances are outlined in paragraph 8.33 of the CPGs. A full list of the circumstances is provided in Audit Report No. 11 2010-11, Appendix 4: Mandatory Procurement Procedures: conditions for Direct Sourcing.

15 Finance, CPGs, 2008, p. 12, paragraph 5.7.

16 Finance, CPGs, 2008, p. 18. The CPGs require that agencies must maintain appropriate documentation for each procurement based on the nature and risk profile of the procurement being undertaken. Transparency provides assurance that the procurement processes undertaken by agencies are appropriate and that policy and legislative obligations are being met. Transparency involves agencies taking steps to support appropriate scrutiny of their procurement activity.

17 The following information is taken from Audit Report No. 11 2010-11, *Direct Source Procurement*, pp. 18-19.

- 4.11 The audit examined whether selected agencies had developed a sound procurement framework; appropriately classified procurement methods when meeting external reporting requirements; implemented the CPGs and relevant legislation when Direct Sourcing; and established effective procurement monitoring and review arrangements.
- 4.12 The ANAO selected four FMA Act agencies to provide a cross-section of the 104 agencies that reported procurement activity in AusTender in 2008 – 09. The agencies selected for audit were:
- the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA);
 - the Department of Innovation, Industry, Science and Research (Innovation);
 - the Department of Veterans' Affairs (DVA); and
 - the Australian Crime Commission (ACC).
- 4.13 The ANAO examined a stratified random sample of 645 procurements valued at \$10 000 and over, across the four agencies.¹⁸ More detailed testing was undertaken for the 285 Direct Source procurements in the sample.¹⁹

Overall audit conclusion

- 4.14 The ANAO made the following overall audit conclusion:

Procuring appropriate property and services, and being able to demonstrate value for money in such activities, is a prime consideration in the administration of Australian Government programs. Within the legislative and policy framework for government procurement, officials must be satisfied that decisions to procure property and services are proper and defensible. In this context, the [CPGs] facilitate sound decisions by establishing procurement policy, including the principles that apply to all

18 For the purposes of the audit an extract was taken from the AusTender database on 29 September 2009. The audit sample is based on contract notices reported by the audited agencies in AusTender with a contract start date between 1 July 2008 and 13 August 2009. The audit scope and approach are outlined in Chapter 1 of Audit Report No. 11 2010-11, *Direct Source Procurement*.

19 Value for money, and efficiency, effectiveness and ethical tests were performed on 248 of these Direct Source procurements. For the other 37 Direct Source procurements, these principles were established through agency arrangements (rather than for each procurement) and it was not within the scope of the audit to test these arrangements.

procurement processes. The CPGs promote value for money as the core principle in all procurements. The other key principles – encouraging competition, efficient, effective and ethical use of resources, and accountability and transparency in decision-making – underpin the achievement of value for money. Agencies are required to have regard to all such considerations in their procurement activities. As the scale and risk profile of the procurement increases, the transparency and defensibility of procurement activities becomes increasingly important.

For covered procurements (generally those above \$80 000), the CPGs establish [MPPs] that agencies are obliged to comply with when procuring property and services. The prescriptive nature of these procedures means that agencies do not have discretion in their application. The [MPPs] limit the use of non-open approaches to the market (including Direct Source procurement) to a small number of specified circumstances, thereby encouraging competition.²⁰ In addition, for covered procurements, the rigour required in documenting the key processes, decisions, and the basis for those decisions, becomes more important given the increased scale and risk profile of procurement.

Where procurements are non-covered (generally less than \$80 000), there will be situations where the cost of participating in an open approach to the market is not commensurate with the scale or risk of the task. In such situations it is the responsibility of agencies to determine an appropriate process that will provide value for money without causing undue costs to the industry or the agency, or reducing program effectiveness.²¹ These processes may include establishing panels for the provision of common property and services, accessing another agency's panel where possible, or seeking quotes from one or more potential suppliers.

Covered and non-covered procurements can be undertaken through either an Open Tender, Select Tender or Direct Source procurement process. Direct Source procurement involves an agency selecting one or more suppliers of its choice to make submissions, such as quotes or tenders, to provide property or services. While Direct Source procurement is, in practice,

20 Finance, CPGs, 2008, p. 12, paragraph 5.8 refers to these mandatory procedures further encouraging competition.

21 Finance, CPGs, 2008, p. 12. In determining a procurement process, the CPGs refer to the selection of Direct Source, Select Tender or Open Tender procurement methods, as well as designing an appropriately competitive process when Direct Sourcing or Select Tendering.

undertaken for procurements of all scales and risk profiles, it should not be the default procurement approach as it is not conducive to open and effective competition and it is generally more difficult to demonstrate value for money.²² The procurement principles reflected in the CPGs are expected to guide all Australian Government procurement activities. Where Direct Source procurement is overused, or perceived as the default method, agencies need to consider the implications this can have for reputational risks, not only for their agency but also for the wider public sector.²³

In the 2009 calendar year, 48 per cent of all contracts entered into by the Government and reported on AusTender were Direct Sourced.²⁴ In addition, Direct Source procurement accounted for 43 per cent (or \$10.2 billion) of the total reported value of all of these contracts. These results are comparable to those of prior periods and, when considered in conjunction with other audit findings, suggest greater emphasis should be given to encouraging more open competition and access in Australian Government procurement, in balancing the range of requirements agencies are required to meet under the CPGs.

Overall, agencies were reasonably familiar with the Government's procurement framework and the CPGs. However, in practice, key elements of the CPGs were not consistently followed across the four audited agencies when choosing and conducting Direct Source procurements. For the majority of Direct Source procurements examined, from the circumstances of the procurement and/or procurement documentation, it was not evident that one or more CPG obligations, requirements or specified sound practices had been met, including for higher valued procurements.²⁵

22 The CPGs explain that effective competition requires non-discrimination in procurement and the use of competitive procurement processes. Finance, CPGs, 2008, p. 11.

23 Finance, FMG No. 14, *Guidance on Ethics and Probity in Government Procurement*, 2005, p. 12. Ethical behaviour and good probity practices enhance an agency's reputation in the marketplace, thereby increasing business confidence in procurement processes, and in turn are likely to maximise the number of suitable responses for future agency work.

24 For the ANAO audit sample, the level of Direct Sourcing reported by the audited agencies in AusTender was generally consistent with the actual level of Direct Sourcing. Misclassifications of Direct Source procurements (as Select Tenders) and panel procurements (as Direct Sourcing) had a net offsetting effect.

25 The CPGs specify obligations, requirements and sound practices, and variously use terms including 'must', 'need to' and 'should' to denote them, respectively.

While the agencies had all developed guidance material to assist staff in implementing sound procurement practices, it lacked sufficient focus on attaining value for money and encouraging competition in their procurement activities. Beyond this, under the principles based framework of the CPGs, agencies need to take a considered approach to establishing arrangements for individual procurements. Improvements in agency guidance material and procurement practices would be beneficial in assisting agencies in achieving better performance and levels of transparency in their procurement activities.²⁶

Agency guidance material

4.15 The ANAO commented on agency guidance material:

All four audited agencies had [CEIs] and operational guidance for procurement that covered the requirements of the requisite legal and policy framework. Nevertheless, these need to more clearly address Direct Sourcing arrangements and achieving competitive procurement processes. The agencies' procedures and delegates' decision-making tended to favour Direct Source procurement, limiting opportunities for competitive procurement processes. Agencies also experienced difficulties in distinguishing Direct Sourcing from Select Tendering. In part, this reflected a lack of clarity in Finance's definitions of methods for non-covered procurements; an issue which Finance recognises and had advised it intends to address. Strengthening of agency operational guidelines, together with additional clarity in Finance's procurement definitions, should improve the level of support provided to officials to aid them in selecting appropriate procurement methods.²⁷

Agency practices

4.16 The ANAO made the following assessment of agency practices:

The ANAO examined procurements valued between \$10 000 and \$305 million, for property ranging from stationery to buildings, and services such as research and development, information and communications technology support and management consultancies. Irrespective of the value or type of Direct Source

26 Audit Report No. 11 2010-11, pp. 19-21.

27 Audit Report No. 11 2010-11, pp. 21-22.

procurements, there was often limited evidence to demonstrate that agencies' practices for individual procurements provided value for money. This does not necessarily mean that value for money was not achieved; rather that, in many cases, procurement practices applied to the particular circumstances, including the supporting documentation, did not engender confidence that value for money requirements of the CPGs were satisfied. The audit also highlighted issues in agencies' application of the other principles set out in the CPGs such as accountability and transparency in procurement decision-making.

Examination of Direct Source procurements across all four agencies provided evidence that, in 85 per cent of instances, agencies approached only one supplier and either did not seek, or only sought one quote prior to procurement.²⁸ The practical application of the CPGs can justify Direct Sourcing in certain instances, for example, for simple low cost items where market forces readily determine product price.

For complex procurements, there may not be an obvious competitive market. In these cases, where Direct Sourcing can be justified, it is prudent for agencies to obtain a small number of quotes from suppliers with a history of proven performance, and to increase the rigour applied to documenting key procurement decisions and the reasons for those decisions.

For covered Direct Source procurements, agencies could not consistently assure that their procurements complied with the [MPPs]. That is, from the circumstances of the procurement and/or procurement documentation, it was not evident that a valid condition for Direct Sourcing had applied to their higher valued procurements (covered procurements), as required by the CPGs.²⁹ When CPUs were involved in decisions to Direct Source covered procurements, this generally had a positive impact on compliance.

28 The ANAO examined a stratified random sample of 645 procurements valued at \$10 000 and over, across the four agencies. More detailed testing was undertaken for the 285 Direct Source procurements in the sample. Value for money (and the number of quotes sought), and efficiency, effectiveness and ethical tests were performed on 248 of these Direct Source procurements.

29 In the sample of 285 Direct Source procurements, the ANAO examined 105 covered Direct Sourced procurements. These procurements exceeded the threshold value of \$80 000, or \$9 million for construction services, and were not exempt procurements (see Audit Report No. 11 2010-11, Appendix 5: Mandatory Procurement Procedures: exemptions for details of exempt procurements).

In general, to improve the alignment of agency procurement practices with the requirements of the CPGs, agencies should give more consideration to the procurement need and risk level, how it may be met through an appropriately competitive procurement process (one that has regard to the current procurement market) and be able to clearly demonstrate that these considerations have taken place.³⁰

Improving procurement approaches

4.17 The ANAO gave the following suggestions for improving procurement approaches.

As previously indicated, the intent of the CPGs is that procurement opportunities for higher value procurements are offered to the full market except in selective circumstances. To achieve this, the 2005 revision of the CPGs introduced more prescriptive conditions for Direct Sourcing covered procurements. It also maintained the requirement for all procurement to achieve value for money. This has required agencies to implement better planning in their approach to procurement, through more disciplined agency guidelines and strategies that accommodate market conditions without compromising value for money, efficiency and ethics, or creating unnecessary red tape.

Having regard to the underpinning expectations for the CPGs and the scale of Australian Government procurement, agencies should strive to better balance the broader benefit of competitive tendering and streamlined procurement practices. Such a balance would see agencies giving greater consideration to the scope of the potential procurement need at the outset of a procurement; more often seeking opportunities to approach the market to enhance the potential to achieve value for money; and adopting more strategic approaches to procurement, such as greater use of panel and other standing offer arrangements. In general, a greater emphasis on earlier planning for procurement activities would improve the procurement outcomes. The ANAO has made four recommendations to improve agency procurement practices in this regard, and to bring greater clarity to the requirements of the CPGs.³¹

30 Audit Report No. 11 2010-11, pp. 22-23.

31 Audit Report No. 11 2010-11, pp. 23-24.

ANAO recommendations

Table 4.1 ANAO recommendations, Audit Report No. 11 2010-11

1.	<p>To improve the transparency of Commonwealth procurement, the ANAO <i>recommends</i> that:</p> <ul style="list-style-type: none"> (a) Finance review the clarity of the CPGs, including classification of procurement methods, specifically Direct Source and Select Tender procurements, and (b) agencies review their policy and guidance on classifying procurement methods to ensure consistency with the CPGs and related guidance.
Agencies' responses: <i>Agreed</i>	
2.	<p>Having regard to the scale and risk profile of different procurements, the ANAO <i>recommends</i> that agencies develop concise guidance and templates, covering:</p> <ul style="list-style-type: none"> (a) methodology for estimating the value of procurements to inform decisions about whether the procurement should be treated as covered; (b) the expected level of documentation to support decisions to undertake Direct Source procurement (covered and non-covered); and (c) consideration of the level of risk and the existence of conflicts of interest for the Direct Source procurement, consistent with the CPGs and Management Advisory Committee Report No. 7.
Agencies' responses: <i>Agreed</i>	
3.	<p>Having regard to the scale and risk profile of different procurements and to improve compliance with the CPGs, the ANAO <i>recommends</i> that agencies assist delegates to address reasonable inquiry requirements prior to procurement approval, by:</p> <ul style="list-style-type: none"> (a) documenting the procurement need, the prevailing market circumstances and other matters that support the use of Direct Sourcing; (b) documenting value for money assessments when Direct Sourcing; and (c) reviewing, and where necessary strengthening, pre-approval compliance assurance mechanisms when Direct Sourcing.
Agencies' responses: <i>Agreed</i>	
4.	<p>To enhance the annual procurement planning process and provide a basis for adopting more strategic and efficient procurement processes, the ANAO <i>recommends</i> that agencies regularly analyse their procurement activities with a view to streamlining multiple approaches to the market for similar types of property or services.</p>
Agencies' responses: <i>Agreed</i>	

The Committee's Review

4.18 The Committee held a public hearing on Wednesday 2 March 2011, with the following witnesses:

- Australian National Audit Office (ANAO);
- Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA);
- Department of Finance and Deregulation (Finance);
- Department of Innovation, Industry, Science and Research (Innovation); and
- Department of Veterans' Affairs (DVA).

4.19 The Committee took evidence on the following issues:

- clarification of the Commonwealth Procurement Guidelines;
- complexity of the Commonwealth Procurement Guidelines;
- achieving value for money;
- United States Free Trade Agreement obligations;
- documentation;
- consequences of non-compliance;
- training and support;
- agency procurement procedures;
- the role of Central Procurement Units;
- other procurement approaches;
 - ⇒ multi-use lists;
 - ⇒ allied tendering;
 - ⇒ best and final offer;
 - ⇒ contract-splitting;
 - ⇒ cooperative procurement using panel arrangements; and
- further ANAO audits of government procurement.

Clarification of the Commonwealth Procurement Guidelines

- 4.20 The ANAO found that the CPGs should be clarified to enhance correct reporting of procurement methods, and recommended that:
- Finance clarify the CPGs, particularly the classification of procurement methods; and
 - agencies review their policy and guidance to ensure consistency with the CPGs and other requirements.³²
- 4.21 The Committee asked Finance about the timetable for this review. Finance stated that it is undertaking a consultative process which aims to rework the CPGs by 1 July 2011. This involves:
- ... working on providing greater clarity around the Commonwealth Procurement Guidelines and processes ... to ensure that we make those processes somewhat more transparent and easier to understand ...³³
- 4.22 The Committee asked if Finance would formally review the changes it would make to the CPGs after they have been put in place. Finance assured the Committee that it constantly reviewed changes to ensure feasibility and functionality, incorporating ongoing meetings with staff at various levels in multiple agencies.³⁴
- 4.23 The Committee raised concerns with the terminology used for the CPGs, and asked if they were *rules* rather than *guidelines*. Finance told the Committee that the CPGs were rules that are required to be followed, and said that part of the current review by Finance of the CPGs would examine whether the next document should be renamed to clarify this point.³⁵
- 4.24 The Committee also noted confusion surrounding the procurement definitions. Finance provided the following definitions of the three methods of procurement:

Figure 1 Procurement Methods

Type	Definition
Open Tender	Publishing a request for tender on AusTender and evaluating all compliant submissions..

32 Audit Report No. 11 2010-11, pp. 80-81.

33 Mr Stein Helgeby, Deputy Secretary, Financial Management Group, Department of Finance and Deregulation (Finance), *Committee Hansard*, Canberra, 2 March 2011, p. 2.

34 Mr John Grant, First Assistant Secretary, Procurement Division, Department of Finance and Deregulation (Finance), *Committee Hansard*, Canberra, 2 March 2011, p. 13.

35 Mr Grant, Finance, *Committee Hansard*, Canberra, 2 March 2011, p. 4.

Select Tender	A two-stage process (where potential suppliers are shortlisted following an Expression of Interest process sought through an open approach to the market); selection from a multi-use list; or selection from a list of all potential suppliers with a specific licence or ability to meet a legal requirement that is essential to the procurement.
Direct Source	Approaching and receiving responses directly from one or more suppliers; it can be used only for procurements where it is specifically allowed under paragraph 8.33 of the CPGs and where the value and reasons for the direct source are documented (refer to paragraph 8.34 of the CPGs).

Source *Finance, submission no. 2, p. 2.*

4.25 The ANAO found that incorrect or inconsistent reporting of procurement method in the audited agencies ranged from 6 per cent to 28 per cent.³⁶ The ANAO stated that incorrect reporting of procurement method could diminish the accountability and transparency of Australian government procurement.³⁷ The ANAO observed that in order to enhance correct reporting of procurement methods, staff require a clearer knowledge of procurement methods.³⁸ Improving staff comprehension of the three procurement methods will mean they are better able to correctly classify procurement. This would reduce the level of incorrect or inconsistent reporting of the procurement method.

4.26 The Committee asked Finance to comment on the ANAO's findings of incorrect classification of procurement. Finance described confusion in agencies when determining the type of procurement, particularly when undertaking procurement from panels:

When you buy off a panel you should actually then say it is an open approach or a select approach. What many people say is, 'Oh, I went directly to the panel, so it is direct procurement.' Informing is one thing, but we are looking at how we can make it easier to comply within the framework that we have.³⁹

4.27 In addition, Finance raised the possibility of changing the procurement definitions to enhance comprehension:

... we are looking at options. One is: can we describe them better? The second is: do we actually need to have three or would two suffice? ... we are looking at what is actually in the free trade agreement and at how we can meet our obligations there without disrupting terribly departments' present understandings.⁴⁰

36 Audit Report No. 11 2010-11, p. 76.

37 Audit Report No. 11 2010-11, p. 80.

38 Audit Report No. 11 2010-11, p. 81.

39 Mr Grant, Finance, *Committee Hansard*, Canberra, 2 March 2011, p. 3.

40 Mr Grant, Finance, *Committee Hansard*, Canberra, 2 March 2011, p. 3.

Complexity of the Commonwealth Procurement Guidelines

4.28 The Committee asked Finance for its views on the complexity of the CPGs. Finance stated that the CPGs comprised six basic rules:

One is value for money – achieving value for money – [...] second is that for above \$80,000 you are expected to approach the open market, and that selection process can be done through a panel. The third is that when you do go to the open market, advertise on AusTender. The fourth is to give at least 25 days [...] in the market for suppliers to respond. The fifth is the rule that no late tenders can be accepted unless the agency's system is at fault [...] the last one is that within six weeks of signing the contract – and the contract is above \$10,000 – you must put it on AusTender.⁴¹

4.29 Finance told the Committee that the six basic rules of the CPGs were not particularly complicated. However, additional layers of guidance and processes created by agencies make procurement more complex, as staff must give consideration to many different issues:

The complexity is really to do with the number of layers of guidance or advice that is provided to people and trying to navigate your way through all of those things.⁴²

4.30 The Committee asked Finance if the procurement process could be made less complex. Finance told the Committee that staff undertaking procurement felt 'daunted' by large activities, and considered that making the process less complex would lead to higher levels of compliance and higher levels of achieving value for money.⁴³

4.31 The Committee asked each agency for its views on the complexity of the CPGs and the additional guidance required to undertake procurement. The Committee queried if this could be addressed by increasing the number of rules in the CPGs or by adding another layer of guidance above the agency level.

4.32 Innovation stated that the CPGs have changed since 2005 and that this makes continual training necessary to remind staff involved in procurement of their roles and responsibilities. The Department told the Committee that this is particularly important when some staff are undertaking procurement irregularly. The Department stated that it has

41 Mr Grant, Finance, *Committee Hansard*, Canberra, 2 March 2011, pp. 4-5.

42 Mr Helgeby, Finance, *Committee Hansard*, Canberra, 2 March 2011, p. 6.

43 Mr Helgeby, Finance, *Committee Hansard*, Canberra, 2 March 2011, p. 6.

processes, systems and guidance in place to support staff undertaking procurement.⁴⁴

4.33 DVA responded that it had no issue with the CPGs, and accepted that they were refined as issues emerged. DVA stated that the process supporting the rules was essential to understand how to apply the rules. DVA noted that the audit highlighted the need for clarification in this manner and that agencies must ensure that staff involved in procurement understand the current rules.⁴⁵

4.34 FaHCSIA supported these comments and stated that the fact that the CPGs were simpler meant they were more useable. FaHCSIA reiterated the importance of the procurement principles and was not certain that lengthier, more constraining rules would improve compliance or enhance the achievement of the procurement principles. Noting the devolved purchasing arrangements, FaHCSIA mentioned that this current arrangement works well and agencies understand the process.⁴⁶

4.35 The Committee acknowledged the devolved approach for procurement, where agencies create their own chief executive instructions, procurement procedures and document templates from the CPGs. The Committee commented that when the revised CPGs are released, agencies will try to reapply the guidelines to their documents, tighten up their processes and create new templates. The Committee suggested that a standardised approach to procurement would remove agency interpretations of the CPGs. The Committee asked Finance to discuss the difficulties of agency interpretation, judgement and subjectivity and the potential benefits of a whole-of-government, standardised approach to procurement.

4.36 Finance updated the Committee concerning the work it is undertaking with regard to standardisation across the public service:

... we are looking to standardise the tender and contract processes around procurements below \$80,000 ... That would look like a set of common documentation that would be available and expected to be used across government as a whole for the three-quarters of procurements that are undertaken every year, so it is a very substantial group of things.

44 Mrs Vanessa Graham, Head of Division, Corporate, Department of Innovation, Industry, Science and Research (Innovation), *Committee Hansard*, Canberra, 2 March 2011, p. 7.

45 Mrs Carolyn Spiers, National Manager, Business Integrity and Legal Services, Department of Veterans' Affairs (DVA), *Committee Hansard*, Canberra, 2 March 2011, pp. 7-8.

46 Mr Steve Jennaway, Chief Financial Officer and Group Manager, Business and Financial Services, Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA), *Committee Hansard*, Canberra, 2 March 2011, p. 8.

... To the extent that we have success with that we intend to take the same approach and apply it to contracts between \$80,000 and \$250,000, which is [the] next largest group. This is the group that takes us right up to the threshold where the free trade agreement essentially says that they must have an open tender type of process, except for the exempt category of processes.

... We have a project under way at the moment to try to streamline or harmonise a lot of [CEIs] in key areas, one of which is procurement, across the Public Service. ... That should drive some streamlining or commonality in processes as a whole.⁴⁷

Achieving value for money

4.37 The Committee were particularly concerned about the issue of achieving value for money in Commonwealth procurement. The ANAO emphasised that the core principle that Australian Government agencies must apply when undertaking procurement is *value for money*. This is enhanced by:

- encouraging competition;
- efficient, effective and ethical use of resources; and
- accountability and transparency in decision-making.⁴⁸

4.38 The Auditor-General reiterated this to the Committee during the hearing:

... if the principles could particularly be in the forefront of every procurement officer's mind as they make their decisions on procurement, they would not go too far wrong – and that is open, effective competition leading to value for money and being able to justify the position you have taken in your procurement approach.⁴⁹

4.39 The ANAO stated that agencies could demonstrate a value for money outcome by obtaining multiple quotes to provide a comparative analysis of costs and by taking into consideration the scale, scope and level of risk of the procurement.⁵⁰ The Committee asked the ANAO if the culture in agencies was to *achieve* value for money when undertaking procurement, or merely to *demonstrate* value for money by 'ticking the boxes'.

47 Mr Helgeby, Finance, *Committee Hansard*, Canberra, 2 March 2011, p. 10.

48 Audit Report No. 11 2010-11, p. 16.

49 Mr Ian McPhee, Auditor-General, Australian National Audit Office (ANAO), *Committee Hansard*, Canberra, 2 March 2011, p. 5.

50 Audit Report No. 11 2010-11, pp. 85-86.

4.40 The ANAO responded that staff involved in procurement must be reminded that they need to be able to justify their decisions:

[If you were asked] to explain this procurement action and whether it represented value for money, would you be comfortable to do so? If the answer is yes, because they followed a particular approach and documented their reasons succinctly – and it may only be a matter of lines – that is the right answer. But if you cannot and you find yourself floundering, you probably have not given enough thought to the approach and the adherence to the principles.⁵¹

4.41 The Committee raised concerns regarding the possibility that a fear of being non-compliant could suppress initiative and prevent staff from achieving value for money. The Committee asked Finance how a culture of compliance with strict regulations created enough space for judgement calls about value for money. Finance replied that there is a range of compliance issues, including some which are more minor and related to inadequate documentation.⁵² However, Finance reiterated that:

... the fundamental issue is that public servants have an obligation in procurement processes to achieve value for money. They have to make judgements along the way about how best to achieve that value for money ... when you make a judgement to go one way or the other way, you write it down and you make explicit why you have chosen one path rather than the other.⁵³

United States Free Trade Agreement obligations

4.42 The ANAO reported that the last review of the CPGs occurred in January 2005, and encompassed the changes to procurement obligations in the United States Free Trade Agreement (USFTA).⁵⁴ The Committee asked Finance if only the USFTA was reflected in the CPGs. Finance responded that the CPGs also broadly incorporated the Chile and Singapore agreements, thus reflecting Australia's free trade agreement obligations.⁵⁵ These incorporations mean that staff do not have to consult any free trade agreements when undertaking procurement.⁵⁶

51 Mr McPhee, ANAO, *Committee Hansard*, Canberra, 2 March 2011, p. 5.

52 Mr Helgeby, Finance, *Committee Hansard*, Canberra, 2 March 2011, p. 4.

53 Mr Helgeby, Finance, *Committee Hansard*, Canberra, 2 March 2011, p. 4.

54 Audit Report No. 11 2010-11, p. 16.

55 Mr Grant, Finance, *Committee Hansard*, Canberra, 2 March 2011, p. 3.

56 Mr Grant, Finance, *Committee Hansard*, Canberra, 2 March 2011, p. 14.

4.43 The Committee asked Finance if there had been any significant changes to the CPGs as a result of the USFTA. Finance explained the implications to the Committee:

... the free trade agreements clarified some processes and brought in a couple of clear rules. For example, you must go to the market above \$80,000. That is very clearly a free trade agreement rule. The US free trade agreement is now a benchmark.⁵⁷

4.44 The Committee asked the ANAO how the CPGs differed from previous procurement guidance. The ANAO responded:

... before we had the \$80,000 rule, a lot of these direct sourcing arrangements used to apply at a much higher level. One of the things that the US free trade agreement brought in was the discipline that said once you get above \$80,000 you need to be able to demonstrate much more easily and readily the open process that you have employed.⁵⁸

4.45 The Committee asked if there had been any domestic and international purchasing change in relation to the USFTA, and if there had been any internal audits of purchasing change. Finance responded that it was not aware of any such reviews but stated that agencies consider that the threshold has improved assessment and oversight mechanisms for procurement.⁵⁹ Finance added that government procurement was open to domestic and internal competition prior to the USFTA, and that small and medium enterprises do win contracts:

In fact, of the total contracts reported on AusTender for 2009-10 (procurement contracts valued at more than \$10,000), the SME share was approximately 56 percent by volume and 32 percent by value, worth approximately \$13.8 billion.⁶⁰

Documentation

4.46 The ANAO found that the audited agencies did not retain adequate documentation to demonstrate how they had assessed and achieved value for money for direct source procurements. No documentation was provided to the ANAO for 74 per cent of the audited direct source procurements.⁶¹ The Committee asked the ANAO how many cases of non-

57 Mr Grant, Finance, *Committee Hansard*, Canberra, 2 March 2011, p. 14.

58 Mr McPhee, ANAO, *Committee Hansard*, Canberra, 2 March 2011, p. 14.

59 Finance, submission no. 8, p. [2].

60 Finance, submission no. 8, p. [2].

61 Audit Report No. 11 2010-11, p. 87.

compliance were serious issues and how many were due to a lack of documentation. The ANAO responded that it is difficult to determine whether procurements complied with the CPGs or achieved value for money without a clear paper trail.⁶²

- 4.47 The ANAO reiterated that the procurement principles include documenting key procurement decisions and actions.⁶³ The ANAO found that there was considerable scope for improving the documentation of such decisions.⁶⁴ The ANAO stated that:

Irrespective of the value or type of Direct Source procurements, there was often limited evidence to demonstrate that agencies' practices for individual procurements provided value for money. This does not necessarily mean that value for money was not achieved; rather that, in many cases, procurement practices applied to the particular circumstances, including the supporting documentation, did not engender confidence that value for money requirements of the CPGs were satisfied.⁶⁵

- 4.48 In order to support recordkeeping requirements, improve the transparency and accountability of government procurement, and increase compliance with the CPGs, the ANAO recommended that agencies assist delegates to adequately document the decisions they make when undertaking Direct Source procurement.⁶⁶ The Committee asked each agency to detail the steps they had taken to address the ANAO's recommendation.

- 4.49 FaHCSIA stated that it had reviewed all of its procurement and contract management policies, guidelines and templates since the audit. FaHCSIA reiterated that:

The ANAO Audit found that FaHCSIA's process for the approval of departures from the [MPPs] of the CPG[s] as "good practice". This process, which has been mandated within the agency, requires all proposals for Direct Sourcing of goods or services above the procurement threshold of \$80,000 to be approved by the Branch Manager with responsibility for the CPU prior to approval by the relevant delegate.⁶⁷

62 Mr McPhee, ANAO, *Committee Hansard*, Canberra, 2 March 2011, p. 5.

63 Audit Report No. 11 2010-11, p. 83.

64 Audit Report No. 11 2010-11, p. 121.

65 ANAO, submission no. 1, p. [3].

66 Audit Report No. 11 2010-11, p. 123.

67 FaHCSIA, submission no. 10, p. [2].

- 4.50 Innovation stated that the Department is reviewing its procurement guidance material and expects this process to be completed by 1 July 2011. Innovation has also developed procurement checklists and an internal quarterly reporting process. In 2009, Innovation implemented a module on contracts into its financial management information system, which utilises an automatic workflow to process procurement documentation. In 2010, Innovation commenced half-day and two-day procurement and contract related training.⁶⁸
- 4.51 DVA reported a number of steps the Department has taken to improve the documentation process:
- the development of a suite of procurement templates covering: value for money, level of risk, Direct Sourcing justification, procurement plans;
 - increased emphasis on explaining the importance of procurement documentation in all training and internal publications to all staff;
 - a software upgrade of the Department's internal contract register application has occurred to make the application more user friendly for business areas and modifications were made to ensure that [FMA Regulation 9] authority was easily identifiable to the user; and
 - the promotion of the use of standard templates issued by the Department of Finance and Deregulation for low risk procurements.⁶⁹
- 4.52 The ANAO also noted that agencies often appeared to be obtaining one or no quotes when undertaking direct source procurement, demonstrating minimal process despite varied scale and risk levels.⁷⁰ The ANAO found that:
- ... for 85 per cent of the audit sample, from available evidence only one, or no quotes were sought, with many of these procurements being covered or of considerable value ...⁷¹
- 4.53 The Committee asked each agency to explain why this may have occurred in their agency.
- 4.54 FaHCSIA responded that:
- The majority of these procurements were contracts for:

68 Innovation, submission no. 6, p. [4].

69 DVA, submission no. 7, p. [3].

70 Audit Report No. 11 2010-11, p. 88.

71 Audit Report No. 11 2010-11, p. 87.

- software licensing, postal services and utility services where there is only one provider of the services; and
- accommodation and venue hire, training and research services where there is a limited number of providers. In these cases, selection is primarily made following a request for quotation process.

In these cases, Direct Source was considered an appropriate procurement solution. In addition, FaHCSIA has established a number of panel arrangements to allow business areas to streamline procurement processes.⁷²

4.55 Innovation told the Committee that:

We have anecdotal evidence to suggest that, in a number of cases, multiple quotes were obtained, however this was not adequately documented. Notwithstanding, it is acknowledged that the number of quotes obtained may be an issue ...⁷³

4.56 DVA stated that at the time of the ANAO's audit, the Department's:

... procurement practices in respect of non-covered procurements (<\$80,000) were consistent with the requirements in the Commonwealth Procurement Guidelines and Finance guidelines at the time that did not specify the requirement for more than one quote. As a result of this audit and the recommendations for clarity in procurement guidelines, the Department has amended its document and online training to ensure all procurements demonstrate value for money by obtaining multiple quotes.⁷⁴

4.57 The Committee asked Finance if it could provide information on instances of non-compliance with the CPGs and how the Department responded to such cases. Finance explained that the present devolved working environment meant that Finance did not receive this information from government agencies so was not able to report on breaches,⁷⁵ however annual reports tabled in parliament contained these figures.⁷⁶

72 FaHCSIA, submission no. 10, p. [3].

73 Innovation, submission no, 6, p. [6].

74 DVA, submission no. 7, p. [4].

75 Mr Grant, Finance, *Committee Hansard*, Canberra, 2 March 2011, p. 3.

76 Mr Helgeby, Finance, *Committee Hansard*, Canberra, 2 March 2011, p. 3-4.

Consequences of non-compliance

- 4.58 The ANAO found that internal agency audits identified similar issues with compliance, documentation and reporting as the Auditor-General.⁷⁷ The Committee asked each agency to provide details of the internal consequences for individual staff who demonstrated non-compliance with the CPGs and agency requirements, given that previously identified issues did not seem to have been adequately rectified.
- 4.59 FaHCSIA stated that it reports non-compliance through the Certificate of Compliance process, and addresses identified issues by bringing them to the attention of the relevant delegate and ensuring the delegate undertakes appropriate training to prevent reoccurrence.⁷⁸
- 4.60 Innovation responded that it:
- ... reports instances of non compliance with Regulation 7 (Commonwealth Procurement Guidelines), Regulation 9 (approval of spending proposals) and Regulation 10 (arrangements beyond available appropriation) as part of the Certificate of Compliance process. Part of the Certificate of Compliance process is to include remedial action to be taken against any identified breaches.
- All performance agreements at the SES Level include compliance as a standard criterion. Therefore, compliance is taken into account when assessing performance at this level.⁷⁹
- 4.61 DVA stated that when a staff member has breached the CPGs:
- ... the Department works at improving that staff member's understanding of the procedures and the importance and need for compliance ...⁸⁰

Training and support

- 4.62 The ANAO found that strengthening agency guidance would improve compliance with the CPGs by raising awareness of its procurement requirements.⁸¹ The Committee suggested a lack of awareness of the requirements in the CPGs could be addressed through training and support.

77 Audit Report No. 11 2010-11, pp. 128-129.

78 FaHCSIA, submission no. 10, p. [2].

79 Innovation, submission no. 6, p. [5].

80 DVA, submission no. 7, p. [3].

81 Audit Report No. 11 2010-11, p. 35.

4.63 The Committee asked Finance to explain its provision of training and support to agencies, and state whether or not this was happening regardless of, or in response to, the audit. Finance provided information to the Committee on its ongoing commitment to procurement training and support:

... Finance considers that procurement capability – that is skills, competency and experience – needs to be improved to promote better compliance in agencies with procurement requirements. In this respect, Finance has introduced a range of initiatives, many of which were initiated before the Audit Report, but are adjusted to take account of changes in policies and areas in which compliance with the CPGs can be improved. These initiatives include:

- Procurement Foundations Seminars – and introduction to the Procurement Framework (held 4-5 times a year);
- Procurement Discussion Forum (held about every 6 weeks);
- Agency visits;
- Procurement Update (a weekly update on the procurement component of the Finance website);
- Procurement Newsletter (issued monthly); and
- Working with key agencies to ensure availability of Certification 4 and degree courses dealing with procurement.⁸²

4.64 Finance stated that procurement training would happen regardless of the audit, but that:

... it has been given a new focus and sense of purpose, if you like, by the audit findings, which essentially tell us that there are some issues that we have to address and give us a bit of a handle about what those problems are.⁸³

4.65 The Committee asked if Finance had the resources to implement the ANAO's recommendations. Finance confirmed that it had the required skills set for procurement policy and agency outreach.⁸⁴

4.66 The ANAO also recommended that agencies improve training and support to staff undertaking procurement.⁸⁵ The Committee asked the audited agencies to provide details of the steps they had taken to implement this recommendation. The Committee particularly asked each agency to:

82 Finance, submission no. 2, p. 4.

83 Mr Helgeby, Finance, *Committee Hansard*, Canberra, 2 March 2011, p. 2.

84 Mr Grant, Finance, *Committee Hansard*, Canberra, 2 March 2011, p. 12.

85 Audit Report No. 11 2010-11, p. 81.

- provide details of its procurement training programs;
- state who provides this training; and
- state if procurement training is compulsory for all delegates involved in procurement.

4.67 FaHCSIA stated that it undertakes regular reviews of policies and guidance, which are easily accessible on the agency's intranet. The Department also stated that all CPU staff have, or are acquiring, nationally recognised qualifications in government procurement. FaHCSIA noted the difficulty in attracting and retaining senior procurement staff.⁸⁶ The Department advised that internal training is available to all staff and delegates are encouraged to attend these courses and others delivered by Finance, the Australian Public Service Commission and other private training providers.⁸⁷ Shane Carroll and Associates developed FaHCSIA's current two-day training course, with the Department's CPU. FaHCSIA also delivers internal one- and two-day training courses on financial management.⁸⁸ However, the Department stated that procurement training is not mandatory:

FaHCSIA considers policy and guidelines available on the Agency's Intranet, coupled with guidance from the CPU, is sufficient to support delegates when exercising their financial delegations.⁸⁹

4.68 Innovation stated that it has an online procurement toolkit and has commenced further procurement and contract-related training, all of which are reviewed on an ongoing basis. These include half- and two-day training courses for staff and delegates.⁹⁰ Innovation stated that CIT Solutions and its internal procurement team developed the Department's current procurement training suite, however the suite is now being delivered by Major Training Solutions.⁹¹ Innovation stated that procurement training is not mandatory, however procurement training is available, and:

The department requires all delegates who approve spending proposals to undertake a Financial Accreditation test prior to becoming a delegate. This mandatory test is designed to test a

86 FaHCSIA, submission no. 10, p. [1].

87 FaHCSIA, submission no. 10, p. [1].

88 FaHCSIA, submission no. 10, p. [2].

89 FaHCSIA, submission no. 10, p. [1].

90 Innovation, submission no. 6, p. [2].

91 Innovation, submission no. 6, p. [3].

delegates [sic] understanding of approving spending proposals including questions on procurement.

Additionally, the department has developed a series of checklists for managers which outline key considerations when approving a spending proposal.⁹²

4.69 DVA stated that its internal Contract Advisory Unit provides procurement training services to its staff.⁹³ DVA advised that it is moving to introduce mandatory training, in addition to its regular internal procurement training sessions.⁹⁴ DVA provided the following details of steps the Department has taken to improve procurement training:

- extensive one-on-one discussions with individual managers and Senior Executives as well as a special awareness session for all Senior Executives in order to establish a top-down approach underlining the importance of procurement practices;
- updates to the procurement Chief Executive Instructions;
- internal instructions issued to emphasise the importance of [FMA Regulation 9] compliance and use of procurement templates;
- publication on the departmental intranet of a suite of templates covering procurement activities;
- increased emphasis on procurement process / documentation in internal publications to staff involved in procurement activities;
- implementation of on-line training package to supplement national training sessions; and
- [DVA's internal Contract Advisory Unit] conducting quality checks of all contract information uploaded to the departmental contracts register and referral back to business area if not compliant.⁹⁵

Agency procurement procedures

4.70 The ANAO recommended that agencies develop guidance and templates that concisely cover the following aspects of the procurement process, in order to improve compliance with the CPGs:

- methodology for estimating the value of procurement;

92 Innovation, submission no. 6, p. [2].

93 DVA, submission no. 7, p. [3].

94 DVA, submission no. 7, p. [3].

95 DVA, submission no. 7, p. [2].

- the expected level of required documentation for direct source procurement;
 - consideration of risks; and
 - consideration of conflicts of interest.⁹⁶
- 4.71 The Committee asked each agency if it had developed a long-term, concrete action plan to ensure future compliance with this recommendation, and to detail the steps it had taken to implement these plans.
- 4.72 FaHCSIA stated that in addition to periodic documentation reviews, it is currently developing an enhanced procurement management system called Procure-to-Pay. This system is scheduled for introduction in the 2011-12 financial year.⁹⁷
- 4.73 Innovation stated that it had implemented measures to improve compliance with the CPGs. Innovation is currently reviewing its procurement guidance material (to be completed by 1 July 2011) and has undertaken the following steps:
- commenced delivery of a procurement and contract-related training course to procurement officers and financial delegates;
 - instituted a mandatory quality assurance stream through its financial management information systems;
 - developed checklists for approval documents; and
 - introduced an internal quarterly reporting framework.⁹⁸
- 4.74 DVA stated that it is developing its Quality Management Framework to assist in complying with the CPGs. This will reiterate the importance of compliance. DVA also noted that:
- In addition, the Division that is responsible for managing the majority of high value procurement activities within the Department has consolidated its procurement function into one area within the Division to strengthen procurement expertise and streamline procurement activities.⁹⁹

96 Audit Report No. 11 2010-11, p. 122.

97 FaHCSIA, submission no. 10, p. [3].

98 Innovation, submission no. 6, pp. [8-9].

99 DVA, submission no. 7, p. [4].

The role of Central Procurement Units

4.75 The ANAO found that Central Procurement Unit (CPU) involvement in individual direct source procurement decisions improved compliance with the Mandatory Procurement Procedures (MPPs) of the CPGs:

The timely involvement of CPU staff in decisions to Direct Source, generally had a positive impact on compliance with the [MPPs of the CPGs]. In this regard, a good practice implemented by FaHCSIA required clearance by the CPU Branch Head of decisions to Direct Source procurements in excess of \$80 000.¹⁰⁰

4.76 The ANAO also reported that the role of the CPU in the audited agencies included:

- provision of legal and commercial advice and support, including advice on agency and Commonwealth procurement policies;
- development and maintenance of agency procurement policy and guidance;
- management of agencies' contract registers, and internal and external reporting; and
- provision of procurement training.¹⁰¹

4.77 The Committee asked the ANAO if, given their effectiveness, CPUs should be more involved in procurement activities. The ANAO told the Committee that it is important that staff who procure irregularly are able to contact a CPU or an officer with expertise to assist them in the process.¹⁰² Finance added that the Department encouraged the involvement of CPUs in procurement.¹⁰³ FaHCSIA, Innovation and DVA agreed that expertise and advice in CPUs were valuable to the procurement process.¹⁰⁴ The Committee asked each agency to explain how it structures and manages its procurement processes.

4.78 FaHCSIA told the Committee that the Department had a CPU to provide advice to staff, in addition to guidance. The Department noted that irregular procurement is also an issue within its Department, but that staff understand the value for money principle and where to find procurement

100 Audit Report No. 11 2010-11, pp. 24-25.

101 Audit Report No. 11 2010-11, p. 62.

102 Mr McPhee, ANAO, *Committee Hansard*, Canberra, 2 March 2011, p. 12.

103 Mr Grant, Finance, *Committee Hansard*, Canberra, 2 March 2011, p. 12.

104 Mrs Graham, Innovation, *Committee Hansard*, Canberra, 2 March 2011, p. 7; Mrs Spiers, DVA, *Committee Hansard*, Canberra, 2 March 2011, p. 7; Mr Jennaway, FaHCSIA, *Committee Hansard*, Canberra, 2 March 2011, p. 8.

advice. FaHCSIA also noted improvements it had made during the audit process.¹⁰⁵

- 4.79 Innovation reported that it is ensuring that procurements are undertaken by staff who understand and can comply with the CPGs and departmental processes. Innovation stated that staff procure with differing frequencies, so increasing awareness and ensuring training is undertaken improves compliance with the CPGs and departmental requirements.¹⁰⁶ Innovation provided further detail on procurement processes to the Committee, emphasising the pressure imposed by time constraints:

... it comes down to an interpretation of the rules. There is always an interpretation of the rules when you are talking about specific situations and about procurements that may have to happen within a short time frame.

... it is very much driven by timing interpretation ...¹⁰⁷

- 4.80 DVA noted that it expected staff to contact the Department's CPU for advice and support when undertaking procurement, and agreed with Innovation's comments regarding time constraints. DVA mentioned that the focus on documentation to prove compliance required staff to understand the process and definitions. It stated that confusion about directly approaching a provider on a panel established by an open tender process (which should be recorded as open tender, not direct sourcing) had been an issue.¹⁰⁸ DVA provided further information regarding how it changed its procurement processes during the audit process, which included advising managers individually, renewing procurement information, updating the CEIs, addressing non-compliance and reviewing AusTender listings.¹⁰⁹ DVA increased the visibility of a key mantra:

... 'If it's not documented, it's not done' ...¹¹⁰

Other procurement approaches

- 4.81 The Committee sought clarification from Finance on various types of procurement approaches during this review. These included:

105 Mr Jennaway, FaHCSIA, *Committee Hansard*, Canberra, 2 March 2011, p. 8.

106 Mrs Graham, Innovation, *Committee Hansard*, Canberra, 2 March 2011, p. 7.

107 Mrs Graham, Innovation, *Committee Hansard*, Canberra, 2 March 2011, p. 7.

108 Mrs Spiers, DVA, *Committee Hansard*, Canberra, 2 March 2011, p. 7-8.

109 Mrs Spiers, DVA, *Committee Hansard*, Canberra, 2 March 2011, p. 8.

110 Mrs Spiers, DVA, *Committee Hansard*, Canberra, 2 March 2011, p. 8.

- multi-use lists;
- allied tendering;
- best and final offer (BAFO);
- contract splitting; and
- cooperative procurement using panel arrangements.

Multi-use lists

4.82 The Committee noted past use of multi-use lists for procurement, highlighting that micro-businesses (typically operating with four or fewer people) were unable to participate in the process, and stating concerns that some lists lacked quality assurance or risk management, yet the completed list could be deemed the only option for providers to use. A multi-use list is a list, intended for use in more than one procurement process, of pre-qualified suppliers who have satisfied the conditions for inclusion on the list.

4.83 The Committee asked Finance to comment on this procurement method. Finance stated that there is presently a multi-use list for advertising, containing approximately 230 firms. Finance confirmed that this was a prequalification list, established with appropriate checks, and that it was fluid, so businesses could be added or removed if their eligibility changed. These processes included referee checks. Agencies were encouraged to engage with suppliers on the list that have not been previously engaged with government.¹¹¹

Allied tendering

4.84 The Committee asked Finance for feedback as to how allied tendering fitted into the CPGs and the procurement principles. The Committee asked if allied tendering could be used as a value for money judgement, and if this would be acceptable if it was adequately documented. Allied tendering is a procurement process, where organisations respond to an open tender, and an agency may select two tenders and ask the organisations to 'cut a deal' to share the procurement.

4.85 Finance explained to the Committee that allied tendering was an acceptable process:

111 Mr Helgeby and Mr Grant, Finance, *Committee Hansard*, Canberra, 2 March 2011, pp. 10-11.

The procurement guidelines do not prohibit that sort of approach. Alliance contracting is quite common in places. What you want to do is make sure you understand who has the risk and who is responsible. That is the key issue when you undertake those types of approaches. There is nothing that says you cannot do it. If it makes good business sense and achieves value for money, it is fine.¹¹²

Best and Final Offer

4.86 The Committee noted that the best and final offer approach frustrated many organisations, who felt they had gone through a genuine procurement process, but been undermined at the end of it. The best and final offer (BAFO) procurement process is where organisations respond to a tender, then the agency asks some organisations if they could improve their offer.

4.87 The Committee asked Finance to comment on this process. Finance made two points:

- that value for money is much broader than price; and
- that there will always be final negotiations with significant contracts.¹¹³

4.88 The Committee asked Finance if using BAFO could make the initial tender process questionable. Finance responded to this concern:

If it is built into the process and it is quite clear that you might go to best and final offers, there is no problem at all. If you think about it, there are other mechanisms that other jurisdictions use for simple procurements – buying computers or something like that – where they use a Dutch auction, essentially, and you actually see the prices, though not necessarily who is putting them in. Is that a best and final offer approach – it is in the end.¹¹⁴

4.89 The Committee commented that such a Dutch auction process would be more transparent than a closed BAFO process.

112 Mr Grant, Finance, *Committee Hansard*, Canberra, 2 March 2011, p. 13.

113 Mr Grant, Finance, *Committee Hansard*, Canberra, 2 March 2011, p. 13.

114 Mr Grant, Finance, *Committee Hansard*, Canberra, 2 March 2011, p. 13.

Contract-splitting

4.90 The ANAO found that seven procurements of the audited sample had been divided into separate smaller procurements. This is an instance of contract-splitting:

The MPPs state that procurements must not be divided into separate smaller procurements to circumvent a threshold ... [where seven] procurements were reported as contract notices with values of \$80,000 or less, the agencies had procured the same services from the same supplier on a continuing basis, and the cumulative value of services exceeded the procurement thresholds. In these instances the MPPs should have been applied to the procurement.¹¹⁵

4.91 The Committee asked the ANAO for its assessment of the incidence of contract splitting in the sample and in government agencies more widely. The ANAO noted that contract splitting had been found to occur in this and other recent audits, and that this was not an acceptable practice for government procurement.¹¹⁶ The ANAO added:

... we saw a small number of examples of behaviour that sought to get around the covered procurement thresholds or that did not address those thresholds properly ...

We saw some other examples where agencies had not estimated the value of the procurement with any degree of accuracy. They had estimated the value at under \$80,000 and there were a couple of cases where at the end of the day the procurement was well in excess of the \$80,000 threshold.¹¹⁷

4.92 However, the ANAO emphasised that:

... these examples were very much in the minority; there were only a few in that large sample [of 280 Direct Source procurements audited for the report].¹¹⁸

Cooperative procurement using panel arrangements

4.93 The ANAO noted that cooperative panel arrangements, whereby multiple agencies access suppliers from the same panel, increased the efficiency of

115 Audit Report No. 11 2010-11, p. 119.

116 Mr McPhee, ANAO, *Committee Hansard*, Canberra, 2 March 2011, p. 11.

117 Mr Stuart Turnbull, Executive Director, ANAO, *Committee Hansard*, Canberra, 2 March 2011, pp. 11-12.

118 Mr Turnbull, ANAO, *Committee Hansard*, Canberra, 2 March 2011, p. 12.

procurement processes. Processes that incorporate whole-of-government panels or intra-agency cooperative panels provide:

... an opportunity for the agencies to better appreciate their overall procurement requirements, as a basis for adopting more strategic approaches to procurement ...¹¹⁹

- 4.94 The Committee noted that many agencies sign up to 'co-panel' and suggested that the procurement of standard government services and standard capabilities required by multiple government agencies could be facilitated through a whole-of-government panel.
- 4.95 Finance noted that this approach could reduce the cost of procurement for businesses as well as agencies and indicated that it supported and endorsed the use of cooperative procurement, in appropriate circumstances:

If one or more agencies goes out to tender for a particular type of service or good, they may choose to do that with a clause that essentially allows other agencies to look at that list and access that panel or that contract. From a whole-of-government perspective that is one of the ways that you can achieve value for money ... The addition of cooperative procurement clauses in these processes is a welcome development from a whole-of-government perspective.¹²⁰

Further ANAO audits of government procurement

- 4.96 The Committee asked the ANAO if it intended to undertake further audits of procurement. The ANAO stated that it would not repeat work on Direct Source procurement, but would examine other aspects and issues relating to procurement as the audit had identified broader issues.¹²¹ For example, the ANAO informed the Committee that it is currently undertaking an audit on the use of panel arrangements in procurement, to gauge how effective the process is.¹²² The ANAO further indicated that it intended to undertake a program of audits on various aspects of government procurement in the future.¹²³

119 Audit Report No. 11 2010-11, p. 35.

120 Mr Helgeby, Finance, *Committee Hansard*, Canberra, 2 March 2011, p. 11.

121 Mr McPhee, ANAO, *Committee Hansard*, Canberra, 2 March 2011, p. 2.

122 Mr McPhee, ANAO, *Committee Hansard*, Canberra, 2 March 2011, p. 2.

123 Mr McPhee, ANAO, *Committee Hansard*, Canberra, 2 March 2011, p. 3.

Committee comment

- 4.97 The Committee is gravely concerned about the findings of the ANAO audit, and many of these concerns were not alleviated during the Committee's review. The Committee was particularly concerned to see the high level of direct source procurement instead of more competitive procurement options; the insufficient governance mechanisms; the lack of documentation and the possibility that value for money is not always being achieved. If these results are indicative of procurement practices in the wider APS, the Committee finds this even more worrying.
- 4.98 Regarding value for money, the Committee considers, as indicated in the CPGs, that this is the paramount goal of procurement. The Committee reiterated throughout the review that government agencies have an obligation to achieve value for money in procurement processes. The review linked low levels of compliance with the CPGs to the perceived lack of achieving value for money. However, the Committee raised concerns that having a culture of compliance might not leave enough space for judgement calls about value for money.
- 4.99 The ANAO stated that a lack of documentation does not indicate that value for money has not been achieved; however the Committee considers that undocumented processes should be viewed with high levels of suspicion. In these circumstances, the Committee is of the opinion that the default assumption should be that 'if it's not documented, it's not done', hence value for money is unlikely to have been achieved.
- 4.100 Although a range of issues were covered during the inquiry, the Committee considers that the following areas warrant specific comment:
- revision of the CPGs;
 - CPUs and approval processes;
 - whole-of-government templates and training;
 - delegation conditions, including training and testing; and
 - consequences of non-compliance.
- 4.101 The Committee anticipates a timely release of the revised CPGs and urges Finance to address the Committee's concerns in the Department's ongoing review processes. The Committee encourages Finance to make the CPGs easier to understand for the broader APS, in order to facilitate

compliance. The Committee sees the revision of the CPGs as imperative to improving practices and compliance in government procurement.

- 4.102 The Committee recognises the important role that CPUs play in improving compliance with the CPGs. The Committee therefore encourages CPU involvement in procurement activity above set thresholds, in an advisory, support and compliance capacity. In addition, the Committee sees benefit in strengthening approval processes, to improve accountability. This could include a central officer, such as the head of the CPU, being required to formally endorse that correct procurement processes have been followed.
- 4.103 Regarding whole-of-government approaches, the Committee accepts that the procurement process is complex. Despite this, the Committee considers that a whole-of-government approach to support procurement at an agency level could improve compliance with the CPGs and the efficiency of procurement. The Committee suggests that standardised whole-of-government templates and training could provide examples of best practice and ensure staff undertaking procurement understand their responsibilities. The Committee commends Finance for providing procurement training and support to government agencies. However, the Committee would like to encourage Finance to more broadly promote the training opportunities it provides for both CPU and non-CPU staff. The Committee encourages appropriate evaluation of this training material to test if it is leading to value for money outcomes.
- 4.104 The Committee notes that as agencies interpret the CPGs, different processes and templates could cause difficulties with subjectivity and judgement. The Committee sees benefit in having a standardised whole-of-government set of templates and checklists, to assist procurement. This would provide a generic foundation that agencies can expand on as required. This in turn should improve outcomes and efficiency.
- 4.105 Regarding delegation conditions, the Committee is of the opinion that there may be merit in obliging individuals with official delegation to undergo compulsory procurement training, or at a minimum, testing. This would ensure that responsible officers meet a minimum level of competency to spend taxpayer's money and that their skills remain current.
- 4.106 Regarding the consequences of non-compliance, the Committee was not provided with sufficient evidence to give it confidence that the consequences of non-compliance are adequate or are being applied. The Committee does commend Innovation's practice of incorporating

compliance into SES performance agreements as a novel and beneficial approach. However, the Committee would have liked to have seen more evidence of a compliance structure. If this does not exist, the Committee would encourage agencies to develop such a structure to ensure that non-compliance is taken seriously and is adequately addressed.

- 4.107 The Committee thanks the agencies for their involvement in this review process and would like to acknowledge those agencies that demonstrated areas of good practice. The Committee is encouraged by the improvements made during, and subsequent to, the ANAO audit. The Committee notes that all audited agencies agreed with the ANAO's recommendations, and anticipates further improvements in light of this review.
- 4.108 However, the Committee remains concerned that while agencies have improved their documentation procedures and training, they have not given the Committee confidence that they have adequately addressed the ANAO's recommendations on estimation methodology, risk analysis and conflicts of interest in their guidance. Furthermore, the Committee reiterates that it does not accept that time constraints are an excuse for non-compliance.
- 4.109 Finally, the Committee supports the ANAO's intention to conduct further audits into a range of government procurement processes. The Committee retains an ongoing interest in this area of public sector administration and will continue to scrutinise it. Due to the significance of the findings in this review, the Committee sees benefit in the ANAO conducting another audit into Direct Source Procurement in the near term.
- 4.110 The Committee understands that achieving value for money involves active judgement as well as rigorous processes and compliance with the CPGs. It is in this context that the following recommendations are made.

Recommendation 2

The Committee recommends that the Department of Finance and Deregulation actively promote and culturally address the use of CPUs across the Australian Public Service.

Recommendation 3

The Committee recommends that the Department of Finance and Deregulation investigate the viability of developing and implementing whole-of-government templates and checklists for use across the Australian Public Service and report back to the Joint Committee of Public Accounts and Audit within six months of the tabling of this report.

Recommendation 4

The Committee recommends that the Department of Finance and Deregulation investigate the feasibility of implementing a process of regular, mandatory testing and/or training for all Australian Public Service officers with delegation authority above \$10 000, with the aim of ensuring currency and competency. Finance should report back to the Joint Committee of Public Accounts and Audit within six months of the tabling of this report.

The investigation should include, but not be limited to, consideration of:

- implementation at agency or whole-of-government level;
- alternative mechanisms to achieve outcomes (see paragraph 4.105 above); and
- the costs and benefits of the scenarios considered.

Audit Report No. 09 2010-11
Green Loans Program

Audit Report No. 12 2010-11
Home Insulation Program

Introduction

- 5.1 The Joint Committee of Public Accounts and Audit (JCPAA) elected to examine Audit Report No. 09 2010-11, *Green Loans Program* and Audit Report No. 12 2010-11, *Home Insulation Program* in a single inquiry. The Committee considered that the two audit reports covered similar issues regarding the development and implementation of programs designed to address energy efficiency.
- 5.2 The Committee recognised that both programs have been the subject of a number of reviews and, consequently, saw its primary role as identifying the lessons that can be drawn from the difficulties experienced with the implementation and delivery of both programs. To this end, this report emphasises the changes that have been initiated within the departments concerned and across the broader Australian Public Service (APS).
- 5.3 It should be noted that the programs concerned had originally fallen under the responsibility of the Department of the Environment, Water, Heritage and the Arts (DEWHA), later the Department of Sustainability, Environment, Water, Population and Communities (DSEWPaC). In March 2010 the programs were transferred to the Department of Climate Change which became the Department of Climate Change and Energy Efficiency (DCCEE).

Program objectives

Green Loans Program¹

5.4 Following Labor's election to Government in late 2007, the 2008-09 Budget allocated \$300 million to fund the Green Loans program. This funding was for an unspecified number of subsidised home assessments, free Green Renovations packs valued at \$50 to each assessed household and interest rate subsidies for up to 200 000 loans to householders. The program, which was to commence in early 2009, had the following objectives:

- encouraging wide-scale improvement of energy and water efficiency in existing homes;
- providing sound advice to households on the most appropriate actions to reduce the environmental impact of operating their home;
- providing financial assistance to households to gain access to the resources they need to invest in energy and water-efficient technologies; and
- reducing annual greenhouse gas emissions.

5.5 In the subsequent 2009-10 Budget, the Government realised \$125.7 million in budgetary savings by reshaping the Green Loans program to reduce the number of loan interest subsidies funded. The revised program was expected to fund up to 360 000 free home assessments; a \$50 Green Rewards card for each assessed household; and interest rate subsidies for up to 75 000 green loans to implement home assessment recommendations. The program was launched from 1 July 2009 and was scheduled to run until 2012-13 or until available funding was exhausted, whichever came first.

5.6 The Green Loans program consisted of the following main elements:

- *training, registration and contracting of assessors* – assessors had to complete approved training, be registered by an Assessor Accrediting Organisation (AAO) and enter into a contract with the Australian Government before being able to provide assessor services under the program;
- *homes sustainability assessments* – after an assessment had been booked, assessors physically inspected and collected information on households' major energy and water systems relating to thermal comfort, water heating, lighting, refrigeration, cooking, and entertainment. An assessment report

1 The following information is taken from Audit Report No. 09 2010-11, *Green Loans Program*, pp. 11-12.

was later provided to householders recommending measures to improve their home's environmental sustainability; and

- *provision of green loans* – eligible householders could apply to a participating financial institution for an interest-free green loan of up to \$10 000 to fund the purchase and installation of eligible items recommended in their assessment report.

Home Insulation Program (HIP)²

- 5.7 In response to the global financial crisis, the Government prepared and announced a series of stimulus measures in late 2008 and early 2009, including the \$42 billion Nation Building and Jobs Plan. A key element of this Plan was the \$3.9 billion Energy Efficient Homes Package (EEHP), announced by the then Prime Minister on 3 February 2009.
- 5.8 The EEHP was designed to generate economic stimulus and support lower skilled jobs in the housing and construction industry and small businesses; and improve the energy efficiency of Australian homes. Installing insulation in existing homes was regarded as one of the most cost-effective opportunities to improve residential energy efficiency. At the time, it was estimated that only 60 per cent of Australian homes were insulated.
- 5.9 The EEHP was to be administered as an executive scheme³ and included the:
- Homeowner Insulation Program⁴: incentives for homeowner-occupiers to have insulation installed (\$2.8 billion over two and a half years);
 - Low Emissions Assistance Plan for Renters (LEAPR): incentives for renters in private rental accommodation and their landlords to install insulation (\$637.4 million over two and a half years); and
 - Solar Hot Water Rebate (SHWR) Program: expansion of incentives for householders to install solar hot water heaters (\$514.4 million over three and a half years).

2 The following information has been taken from Audit Report No. 12 2010-11, *Home Insulation Program*, pp. 19-20.

3 Executive schemes rely on executive rather than legislative power, and their key advantage is the speed in which they can be established and their flexibility. A challenge in implementing an executive scheme is ensuring that any terms and conditions are clear and enforceable. As noted by the Commonwealth Ombudsman, many of the checks and balances in programs are conveyed through legislation. (Commonwealth Ombudsman, *Executive Schemes*, <http://www.ombudsman.gov.au/files/investigation_2009_12.pdf> viewed 9 May 2011.)

4 The Homeowner Insulation Program operated from 3 February 2009 and was replaced by the Home Insulation Program on 1 July 2009. After this date, the original budget of \$2.8 billion was subsequently revised to \$2.45 billion.

The ANAO Audit

Audit objective

Green Loans Program⁵

- 5.10 The objective of the audit was to examine key aspects of the establishment and administration of the Green Loans program by DEWHA and the program's transition to DCCEE. Particular emphasis was given to the program's three main elements:
- training, registration and contracting of assessors;
 - scheduling, conduct, and reporting of home sustainability assessments, and the associated payments to assessors; and
 - provision of green loans to householders, and the associated payments to participating financial institutions.
- 5.11 The audit also examined the extent to which steps had been taken by DEWHA and DCCEE to assess whether the Green Loans program was achieving its objectives.

Home Insulation Program⁶

- 5.12 The objective of this audit was to assess key aspects of the establishment and administration of the Home Insulation Program (HIP) by DEWHA as well as the transition of the program to DCCEE. All phases of the program were examined with particular emphasis for Phase 2 being given to:
- program design and implementation;
 - registration and training of installers;
 - payment of rebates; and
 - the compliance strategy underpinning the program.

Overall audit conclusion

- 5.13 The overall audit conclusion for both Audit Report No. 09 2010-11, *Green Loans Program* and Audit Report No. 12 2010-11, *Home Insulation Program* identified a number of common themes, in particularly inadequate governance arrangements and Ministerial advice.⁷ In both reports the ANAO noted project management shortcomings and a lack of executive

5 The following information has been taken from Audit Report No. 09 2010-11, p. 16.

6 The following information has been taken from Audit Report No. 12 2010-11, pp. 25-26.

7 Audit Report No. 09 2010-11, pp. 18-19; Audit Report No. 12 2010-11, p. 32.

oversight.⁸ The ANAO was particularly critical of the quality of advice to the respective Ministers and commented in both cases that, not only was advice inaccurate, but overly optimistic.⁹

Green Loans Program

- 5.14 The ANAO noted that although the Green Loans program was not as significant in terms of funding allocation compared to other programs administered by DEWHA, it did have a significant impact on stakeholders:

The program stimulated a small sustainability assessment industry and created work for thousands of assessors. Hundreds of thousands of households had their energy and water consumption assessed to identify opportunities for making savings. The assessment reports informed householders how to change their behaviour (for example, by lowering hot water system thermostat settings), and householders could apply for an interest-free loan to fund the purchase of capital items to improve their home's environmental sustainability.¹⁰

- 5.15 In particular, the ANAO found that the number of contracted assessors and the demand for assessments rapidly increased beyond what DEWHA had anticipated, resulting in significant delays for householders.¹¹ In response to adverse media coverage, program changes were implemented in early 2010:

Program changes announced on 19 February 2010 effectively capped the number of assessors and the demand for assessments, but also left thousands of assessors, who had each invested their time and around \$3000 on training, insurance and registration, with unfulfilled work expectations. The backlog of assessment reports to be distributed continued to grow to over 100 000, which denied many householders the opportunity to apply for an interest-free green loan.¹²

- 5.16 The ANAO found that since taking over the program DCCEE had made considerable inroads in clearing the backlog but that there was still some work to do:

8 Audit Report No. 09 2010-11, p. 18; Audit Report No. 12 2010-11, p. 36.

9 Audit Report No. 09 2010-11, p. 18; Audit Report No. 12 2010-11, p. 36.

10 Audit Report No. 09 2010-11, p. 17.

11 Audit Report No. 09 2010-11, p. 17.

12 Audit Report No. 09 2010-11, p. 17.

Since taking over responsibility for the administration of the program, DCCEE has procured audit and compliance services for the program (April 2010), cleared the backlog of assessment reports (May 2010), and arranged for householders to claim their \$50 Green Rewards (from July 2010 onwards). DCCEE has yet to determine a methodology for measuring the performance of the Green Loans program against its objectives.¹³

- 5.17 The ANAO found that the major cause of the problems encountered by the program was the lack of effective governance. The ANAO was critical that the day-to-day management responsibility had been devolved to 'sub-executive level officers who had little program delivery experience' and that the 'program's visibility to DEWHA's senior executives was poor'.¹⁴ The ANAO was particularly concerned that advice to the Minister was 'incomplete, inaccurate and untimely' and concluded:

... the former Minister was not well served by his department in this respect during the period from July 2008 to late 2009 due to the poor quality briefings he received.¹⁵

- 5.18 The ANAO also found that, although the Department had considered legal risks, overall it had failed to identify and manage other key risks including:

... the quality of assessor training posed by the absence of an accredited training course; the lack of policy or administrative measures to control assessment demand; and staff in the Green Loans team collectively not possessing sufficient skills and experience in key areas of program management.¹⁶

- 5.19 Overall, the ANAO found that after DEWHA established the Energy Efficiency Taskforce in November 2009, the problems identified in the audit were largely addressed. Governance improved, as did the quality of Ministerial briefings and administrative issues were managed.¹⁷ In light of the changes the ANAO was satisfied with progress and did not make any recommendations:

The audit has not made any recommendations to the departments as DEWHA and DCCEE announced changes to improve corporate and program governance, enhance internal control mechanisms

13 Audit Report No. 09 2010-11, pp. 17-18.

14 Audit Report No. 09 2010-11, p. 18.

15 Audit Report No. 09 2010-11, pp. 18-19.

16 Audit Report No. 09 2010-11, p. 19.

17 Audit Report No. 09 2010-11, p. 21.

and systems, and strengthen accountability frameworks. Better engagement of centrally-maintained subject matter expertise, such as risk management, procurement, ICT, compliance and communications, by program areas is also being encouraged to provide greater support for program managers.¹⁸

Home Insulation Program

5.20 With regard to the Home Insulation Program, the ANAO concluded that:

The program was developed in a very short period of time between 3 February 2009 and 30 June 2009 as a stimulus measure to respond to the global financial crisis. In terms of outcomes, it has been estimated that between 6000 and 10 000 jobs have been created. While, clearly, the creation of these jobs was an important outcome in the face of the downturn in the economy, these jobs were shorter-lived than intended due to the early closure of the program. There have also been energy efficiency benefits but these are likely to be less than anticipated due to the deficiencies in a significant number of installations.¹⁹

5.21 The ANAO identified poor risk management practices coupled with a lack of project management and implementation skills as contributing factors to the program's failure.²⁰ The ANAO noted that the consequences have been wide ranging and ongoing:

Overall HIP has been a costly program for the outcomes achieved, including substantial remediation costs. There still remains a range of safety concerns and coronial inquiries are yet to be completed in relation to the four fatalities associated with installations under the program. The fallout from the program has caused serious inconvenience to many householders, reputational damage to the insulation industry, and financial difficulties for many Australian manufacturers and installers. It has also harmed the reputation of the Australian Public Service for effective service delivery.²¹

5.22 The ANAO noted that HIP was rolled out in two phases and that the key difference between the two phases was that 'under Phase 1, the rebate was paid to householders, while under Phase 2 it was paid directly to

18 Audit Report No. 09 2010-11, p. 22.

19 Audit Report No. 12 2010-11, p. 27.

20 Audit Report No. 12 2010-11, p. 27.

21 Audit Report No. 12 2010-11, p. 27.

installers'.²² The change in process considerably increased the risk to the Department as there was 'no limit to the number of claims that an installer could submit'.²³

5.23 For Phase 1, the ANAO found that sound processes ensured that householders' claims for rebates were adequately assessed and installations completed.²⁴ However, for Phase 2, the ANAO found that the processes proved inadequate due to a number of factors, including:

- the very tight timeframe in which the program was required to be delivered;
- underestimation of key program risks;
- under-resourcing of program administration;
- the delayed introduction of an effective compliance and audit program; and
- inadequate governance arrangements and advice to the then Minister.²⁵

5.24 Despite the problems identified in the audit the ANAO did not make any recommendations as the program has been closed and the ANAO is satisfied that DEWHA and DCCEE have reviewed and revised their procedures to incorporate the lessons learned from the program implementation. The ANAO acknowledged the improvements but cautions that:

[W]hile there is significant work underway, there is still much to be done to address quality, safety and fraud issues under the program.²⁶

The Committee's review

5.25 The Committee held a public hearing on Wednesday 23 March 2011, with the following witnesses:

- Australian National Audit Office (ANAO);
- Department of Climate Change and Energy Efficiency (DCCEE);

22 Audit Report No. 12 2010-11, p. 32.

23 Audit Report No. 12 2010-11, p. 32.

24 Audit Report No. 12 2010-11, p. 32.

25 Audit Report No. 12 2010-11, p. 32.

26 Audit Report No. 12 2010-11, p. 38-39.

- Department of Sustainability, Environment, Water, Population and Communities (DSEWPaC); and
- Medicare Australia.

5.26 The Committee took evidence on the following issues:

- impact on industry and community;
- future of demand driven, energy efficiency programs;
- insulation industry;
- departmental capacity;
- Ministerial advice;
- lessons learnt:
 - ⇒ application across the APS;
 - ⇒ cultural change;
 - ⇒ response time; and
 - ⇒ external advice and expertise.

Impact on industry and community

5.27 The Committee expressed particular concern regarding the ongoing consequences for small business and individuals following the failure of both the HIP and Green Loans programs. The Committee is acutely aware of the time, effort and money that many people have invested in these programs and that the mismanagement of the programs has left these people exposed. The Committee asked DCCEE and DSEWPaC what steps have been taken to alleviate the impact of the program failings on industry, small business and individuals.

5.28 With regard to HIP, DCCEE told the Committee that a range of industry assistance programs had been implemented:

The Department put forward an industry workers assistance package in the early part of last year to the tune of approximately \$41 million and later developed a broader insulation industry assistance package of around \$15 million to support business in inventory warehousing and the like.²⁷

27 Mr Martin Bowles, Deputy Secretary, Department of Climate Change and Energy Efficiency (DCCEE), *Committee Hansard*, Canberra, 23 March 2011, p. 3.

- 5.29 The Department informed the Committee that assistance packages had also been put in place for assessors under the Green Loans Program, including a financial assistance package and a training assistance package.²⁸ DCCEE explained that the financial assistance package was aimed at uncontracted assessors, those who had been accredited but had not obtained work under the program.²⁹ The training package provides assistance to contracted assessors who wish to upgrade their skills.³⁰
- 5.30 The Committee asked for clarification on the training assistance package. As the Green Loans Program has been wound up, the Committee was unsure why assessors would require further training. DCCEE explained that the industry 'believe this is a sustainable private sector business in the long term' and that 'there is a future for some private-sector assessors'.³¹
- 5.31 The Committee asked DCCEE if the financial assistance packages would pick up everyone who had been disadvantaged by the programs or if there would remain a level of financial exposure at the community level. The Department told the Committee that, with the assistance packages for both programs, anyone who applied for help and who met the eligibility criteria would be assisted.³² However, DCCEE conceded that some companies may not yet have been assisted.³³ The Department also explained to the Committee that for some companies participation in the programs was minimal and they had not required assistance. These companies:
- ... had no interest prior to these programs in either insulation or green loans in some cases and ... developed a particular stream for their company. They have just moved on to do the rest of their business.³⁴
- 5.32 The Committee asked the departments if there is acknowledgment of the residual uncertainty and frustration at the community level over the problems with the two programs. DCCEE told the Committee that the Department recognises, not only the extent of the hardship experienced, but the ongoing nature of it.³⁵ DCCEE indicated its cooperation with the Australian Federal Police in identifying fraudulent behaviour as an
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28 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, p. 3.

29 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, p. 3.

30 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, p. 3.

31 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, pp. 3 and 8.

32 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, p. 5.

33 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, p. 5.

34 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, p. 5.

35 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, p. 4.

example of the Department's commitment to alleviating that uncertainty and frustration.³⁶ DSEWPaC corroborated that the issues arising from the implementation of these programs has resulted in a loss of goodwill in the community.³⁷

Insulation industry

5.33 The Committee suggested that the insulation industry was not very coherent and that this had exacerbated the problems experienced when these two programs were implemented. The Committee asked if the industry had changed.

5.34 DCCEE explained that the industry was effectively unregulated and largely divided according to the four types of insulation product: cellulose, polyester, glass fibre and foil.³⁸ The Department told the Committee that DCCEE has been working with both the industry and regulatory bodies to improve coherence and regulation across the industry.³⁹ DCCEE admitted that this was not the usual role of the Department but felt that, in this case, DCCEE could provide relevant assistance:

... given we were working in this space, particularly around the rectification issues, we have quite often and in some detail provided advice and information to assist these bodies in developing standards. There is a lot of work being done around downlight covers, for instance; there is a lot of work being done around a standard for home insulation more broadly. That will continue well past and outside any Commonwealth influence, but we have participated strongly in that.⁴⁰

5.35 The Committee asked DCCEE if the changes made indicated that the industry had improved. Although acknowledging that it would depend on the industry, the Department was confident that there would be long term improvement:

... that will be up to the industry ultimately, but what we have been able to do with the rectification program is introduce a whole

36 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, p. 4.

37 Mr Malcolm Thompson, Deputy Secretary, Department of Sustainability, Environment, Water, Population and Communities (DSEWPaC), *Committee Hansard*, Canberra, 23 March 2011, p. 4.

38 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, p. 6.

39 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, p. 6.

40 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, p. 6.

lot of standards around training and around what you need to do to get into the industry. I would like to think that will be enduring.⁴¹

Future of demand driven, energy efficiency programs

5.36 The Committee asked the departments if the experience with the HIP and Green Loans programs had caused any reluctance on the side of the departments to develop and implement such programs in the future. While DCCEE reminded the Committee that ultimately such decisions reside with the government of the day, the Department still saw benefit in such programs.⁴² However, DCCEE acknowledged that the programs must be better managed:

There is definitely a view that we need to manage them appropriately, and we need to look at proper mechanisms for the delivery of these programs. But my group is absolutely focused on a range of energy efficiency programs, and we will continue to be so.⁴³

Departmental capacity

5.37 For both the HIP and Green Loans programs, the ANAO was critical of the governance and administrative arrangements. The ANAO found a lack of executive level oversight, lack of adequate human resources and significant administrative shortcomings.⁴⁴ The Committee asked what steps had been taken to address these issues and ensure the effective implementation of similar programs in the future.

5.38 DSEWPaC told the Committee that the Department has implemented changes to governance arrangements that ensure executive level visibility of all programs.⁴⁵ DSEWPaC identified appropriate training as the key to improving the availability of suitably qualified and skilled staff.⁴⁶ To that end the Department has instigated a range of training initiatives:

... making sure that people understood, importantly, the financial framework and the obligations under the Financial Management and Accountability Act, procurement guidelines ... and all those

41 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, p. 6.

42 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, pp. 5-6.

43 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, p. 5.

44 Audit Report No. 09 2010-11, pp. 18-19; Audit Report No. 12 2010-11, pp. 34-37.

45 Mr Thompson, DSEWPaC, *Committee Hansard*, Canberra, 23 March 2011, p. 7.

46 Mr Thompson, DSEWPaC, *Committee Hansard*, Canberra, 23 March 2011, p. 7.

sorts of things. We ramped up the requirements for mandatory training across the board on a number of those things.⁴⁷

- 5.39 Further, DSEWPaC emphasised the importance of an effective internal audit process and told the Committee the Department has made a number of changes to make sure its audit committee and internal audit program are working more efficiently:

... we moved much more to an independent membership of our audit committee. So we now have an independent chair, two independent members and one departmental member. ... We also appointed new internal auditors who have a very active program in the department.⁴⁸

- 5.40 DCCEE indicated that the Department had implemented similar measures to address the governance, staffing and administrative issues that emerged during the two programs. DCCEE pointed out to the Committee that, as the Department's focus was specifically on the remediation work for HIP, the expectation was that it would perform more effectively.⁴⁹

- 5.41 In particular, DCCEE identified the steps the Department had taken to improve the procurement process through engaging and employing procurement expertise.⁵⁰ In addition to a comprehensive training program, DCCEE told the Committee the Department has significantly strengthened its project management framework:

... we have developed a project management office to start to monitor these things. We have a program management committee which reports directly to our senior management board ... within the department. We have a whole range of project and program committees that report KPIs on where each of our projects and programs are up to. That gets fed up and when there are any problems we can have a look at those pretty quickly.⁵¹

- 5.42 In relation to these issues, DCCEE drew the Committee's attention to the ANAO's endorsement of the improvements in governance and administration with regard to the remediation programs for HIP.⁵² The

47 Mr Thompson, DSEWPaC, *Committee Hansard*, Canberra, 23 March 2011, p. 7.

48 Mr Thompson, DSEWPaC, *Committee Hansard*, Canberra, 23 March 2011, p. 7.

49 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, p. 7.

50 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, p. 7.

51 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, p. 8.

52 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, p. 8; See Audit Report No. 12 2010-11, p. 153.

Department informed the Committee that since the ANAO audit, DCCEE has further improved in all the areas identified in the audit.⁵³

Ministerial advice

5.43 The ANAO found that for both the HIP and the Green Loans programs, the quality of advice provided to the respective Ministers was inaccurate and overly optimistic.⁵⁴ The Committee expressed grave concern over the quality of Ministerial advice provided by the departments for both programs, particularly the failure to identify the difficulties the departments were facing with regard to resourcing and meeting deadlines. The Committee asked the departments what steps have been taken to improve the quality of Ministerial advice and to ensure that advice is realistic.

5.44 While conceding that the Department could have 'done a better job' in this regard, DSEWPaC maintained that the briefs provided *had* identified risks and issues of concern to the respective Ministers.⁵⁵ DSEWPaC told the Committee that the Department has improved program management and program reporting for all major projects and that these improved processes have specifically addressed risk management:

... embedded within that are risk management, risk registers and risk identification systems that we think now are more robust.⁵⁶

5.45 The Committee suggested that risk identification was only the first part of the problem and that risk mitigation strategies had to be put in place to manage the risk. DSEWPaC agreed and said that the new processes, 'taken as a whole', would ensure that suitable, effective risk mitigation strategies would be developed and implemented for future programs.⁵⁷

5.46 The Committee asked DSEWPaC if, at any time, the Department had advised the Minister that managing both the HIP and Green Loans programs simultaneously would cause significant resource issues for the Department. DSEWPaC could not confirm that such advice had been provided to the Minister.⁵⁸

53 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, p. 8.

54 Audit Report No. 09 2010-11, p. 18; Audit Report No. 12 2010-11, p. 36.

55 Mr Thompson, DSEWPaC, *Committee Hansard*, Canberra, 23 March 2011, p. 9.

56 Mr Thompson, DSEWPaC, *Committee Hansard*, Canberra, 23 March 2011, p. 9.

57 Mr Thompson, DSEWPaC, *Committee Hansard*, Canberra, 23 March 2011, p. 9.

58 Mr Thompson, DSEWPaC, *Committee Hansard*, Canberra, 23 March 2011, p. 11.

Lessons learnt

- 5.47 The Committee asked the departments what lessons had been learnt from the issues identified in implementing the HIP and Green Loans programs and what changes had been made to ensure future programs would be implemented more effectively and efficiently.
- 5.48 The departments drew attention to the number of reviews that had been undertaken which had helped highlight the issues and suggested improvements.⁵⁹ In particular, the establishment of the separate Department of Climate Change and Energy Efficiency had initiated a round of reform to address all of the areas of concern:
- As we have moved forward we have been able to incorporate all of those lessons learned, if you like, from the programs into the development of our governance and management structures to ensure that these sorts of issues do not happen again.⁶⁰
- 5.49 DSEWPaC told the Committee that the most important change within the Department was the development of a 'more active risk culture'. DSEWPaC explained that this was evidenced in a greater awareness of risk and an increased desire to be proactive and manage identified risks collectively.⁶¹

Application across the APS

- 5.50 The Committee sought assurance that the lessons learnt were being shared across departments and not confined to the two departments involved in the implementation of the HIP and Green Loans programs. DCCEE assured the Committee that there had been a good deal of collaboration across departments in identifying the lessons that could be drawn from the implementation of these two programs and that the lessons extended to a broad range of issues:
- ... about this whole-of-government interaction. ... there has been a lot of work happening in the background about service delivery and how a policy position actually transitions from a policy all the way through to program design and delivery. There has been a significant amount of work on all of that, which I think has been led by the Department of Finance and Deregulation.⁶²

59 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, p. 3.

60 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, p. 3.

61 Mr Thompson, DSEWPaC, *Committee Hansard*, Canberra, 23 March 2011, p. 9.

62 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, p. 10.

- 5.51 The Committee asked for evidence that the lessons learnt have been implemented across the Public Service. Medicare Australia confirmed that there have been improvements across the board and that delivery issues are becoming an integral part of policy discussions:

Across the whole of the Public Service there has been a renewed emphasis on involving service delivery issues right at the beginning of policy thinking, and various options with their associated risks, benefits and strategies are becoming more the norm, as cross-departmental-agency discussion are becoming more the norm. ... Certainly, within the Department of Human Services and its various agencies, all of the sorts of things that have been canvassed so far about governance arrangements – project management, capability, recognition and then skilling – have been re-examined and are being improved for the whole portfolio.⁶³

Cultural change

- 5.52 While the Committee accepted the assurance that changes had been made to governance and administration, it questioned whether there was evidence of a cultural shift within departmental attitude.
- 5.53 DCCEE explained to the Committee that corporate culture is made up of a range of factors including governance, service and program delivery skills.⁶⁴ The Department cautioned that although better processes could be put in place, people can always find ways to break ‘rules and regulations’.⁶⁵ However, DCCEE advised the Committee that there had been a distinct cultural shift in the Department and that staff had developed an inclusive culture that encouraged individuals to identify and speak out about problems.⁶⁶
- 5.54 DSEWPaC admitted that cultural change is difficult to measure but assured the Committee that the Department had implemented both ‘a change management process and a communication process’ to encourage a cultural shift.⁶⁷ DSEWPaC told the Committee that it had articulated a series of goals in the Department’s most recent strategic plan designed to facilitate such a change:
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63 Ms Malisa Golightly, Deputy Chief Executive Officer, Medicare Australia, Department of Human Services, *Committee Hansard*, Canberra, 23 March 2011, p. 14.

64 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, p. 12.

65 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, p. 12.

66 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, p. 13.

67 Mr Thompson, DSEWPaC, *Committee Hansard*, Canberra, 23 March 2011, p. 13.

... a proactive attitude in all we do; delivering to high standards; rigorous and balanced policy advice – keeping each other honest in terms of the advice that we give to ministers ... and accepting personal responsibility for things that we are responsible for.⁶⁸

- 5.55 The Committee pursued the issue of cultural change, asking the departments if individual staff had been held accountable and suffered direct consequences as a result of the failure of these two programs. DCCEE maintained that the problems and issues had not been brought about by the deliberate mal-intent of staff members but rather by a mismatch between appropriate skills and the expectations of a particular role. The Deputy Secretary of DCCEE told the Committee that it is taking steps to improve this situation:

That is definitely something that I have been dealing [with] over a period of time – making sure that we can get the right people in the right jobs, people who understand all of the different things that they need to understand. That is one of the lessons that we have learnt as a public service more broadly.⁶⁹

Response time

- 5.56 The Committee asked the departments if the structural and cultural changes that had been put in place have improved the departments' ability to respond quickly to a similar crisis to the global financial crisis. Specifically, the Committee asked if the new processes had been tested and if the departments could provide assurance that departmental capacity had improved and that relevant Ministers would be properly advised.
- 5.57 DSEWPaC told the Committee that testing newly implemented processes is ongoing and that the recent machinery of government changes had provided an opportunity to 'stress-test' many of the structural and cultural changes.⁷⁰ However, DSEWPaC emphasised the importance of the public service as a whole responding to the lessons learnt from the problems encountered in the implementation of these programs and emphasised the important contribution that these two ANAO audit reports have made to public administration across the board.⁷¹

68 Mr Thompson, DSEWPaC, *Committee Hansard*, Canberra, 23 March 2011, p. 13.

69 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, p. 15.

70 Mr Thompson, DSEWPaC, *Committee Hansard*, Canberra, 23 March 2011, p. 14.

71 Mr Thompson, DSEWPaC, *Committee Hansard*, Canberra, 23 March 2011, p. 14.

- 5.58 DCCEE told the Committee that the Department was in a different position, having taken responsibility for the programs ‘after the event’ when the emphasis had shifted to remediation.⁷² DCCEE was able to establish ‘a new way of doing business’ from the start, incorporating the better practice principles advised by the ANAO.⁷³ In particular, developing and implementing the remediation programs, the Home Insulation Safety Program (HISP) and the Foil Insulation Safety Program (FISP), provided an opportunity for new processes to be thoroughly tested.⁷⁴ DCCEE assured the Committee that the Department was confident that it could respond effectively to future challenges:

The development of FISP and HISP ... has positioned us to understand more deeply how we would need to respond to similar types of programs going forward. There are always risks in these issues. As long as we understand what those risks are, I think we can at least try and put the mitigation strategies in place that might pick them up a little bit more quickly.⁷⁵

- 5.59 Medicare Australia pointed to the Department’s quick response to the Queensland floods and Cyclone Yasi as evidence of the improvement in its response time to emergency situations.⁷⁶

External expertise and procurement processes

- 5.60 The Committee asked the Departments if full advantage had been taken of access to external advice and expertise. In particular, the Committee was concerned that the knowledge gained is integrated into the ongoing corporate knowledge of departments and that the Australian taxpayer is receiving value for money across the APS from consultants and advisors.
- 5.61 DSEWPaC told the Committee that the Department does draw on external advice to supplement its capacity as required.⁷⁷ However, DSEWPaC admitted that questions had been raised about how the external expertise was commissioned and utilised.⁷⁸ DSEWPaC informed the Committee that the Department is reviewing its processes and will implement changes:

72 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, p. 14.

73 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, p. 14.

74 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, p. 14.

75 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, p. 14.

76 Ms Golightly, Medicare Australia, *Committee Hansard*, Canberra, 23 March 2011, p. 15.

77 Mr Thompson, DSEWPaC, *Committee Hansard*, Canberra, 23 March 2011, p. 11.

78 Mr Thompson, DSEWPaC, *Committee Hansard*, Canberra, 23 March 2011, p. 11.

For the Department in the post energy efficiency programs period, we did commission an internal review ... of the way in which we manage our information, including information that comes to use from external sources through consultants et cetera. The implementation of those review findings is now trying to address the very question that you raise. ... it is a live question for us and one that we are trying to work through.⁷⁹

- 5.62 DCCEE told the Committee that the Department is taking steps to determine areas where it is lacking in expertise and decide whether the best course of action is to upskill existing staff or buy in the knowledge.⁸⁰ DCCEE explained that time is an important consideration:

If we are procuring something that we only need for a month, we do not want to actually employ staff. We should probably always go out and procure that particular piece of advice.⁸¹

- 5.63 DCCEE identified improved procurement processes as the most important consideration in securing external advice and expertise. DCCEE told the Committee that it has implemented procurement training across the Department to ensure that relevant staff make informed choices about the quality of outside contracts being sought:

We have been doing procurement training across all of our staff that are actively engaged in any of these program areas to try to upskill them a little bit, be a little bit more informed about what these people are providing and see if we can do it in different ways going forward.⁸²

Committee comment

- 5.64 The Committee was deeply concerned by the ANAO findings for both these programs, especially the inadequacy of governance arrangements and the quality of advice provided to the ministers. The Committee understands the difficulties caused by the tight implementation timeframes but this does not excuse the lack of executive oversight or the underestimation of key program risks.

79 Mr Thompson, DSEWPaC, *Committee Hansard*, Canberra, 23 March 2011, p. 11.

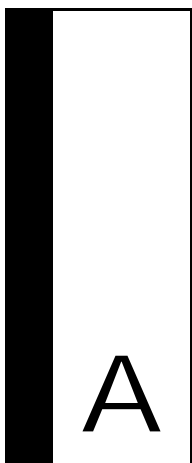
80 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, p. 12.

81 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, p. 12.

82 Mr Bowles, DCCEE, *Committee Hansard*, Canberra, 23 March 2011, p. 12.

- 5.65 It also does not excuse the poor quality of advice provided to the respective Ministers by the departments. The failure to advise Ministers of resourcing and capacity constraints is particularly serious. The Committee reiterates the need for accurate, timely advice that realistically reflects circumstances, including a department's resource needs and capacity to meet deadlines.
- 5.66 Of greatest concern to the Committee is the ongoing impact of the failure of the HIP and Green Loans programs on industry, individuals and the community. The Committee recognises the residual emotional and financial impact and the ongoing uncertainty and frustration existing in the community and welcomes the steps that have been taken by the departments to rectify some of these issues.
- 5.67 The Committee notes that the ANAO made no recommendations due to the proactive recognition of issues and remedial action already taken by departments.
- 5.68 The Committee also notes the work done by the ANAO and the departments in identifying and articulating the lessons learnt from the implementation and delivery of the HIP and Green Loans programs. The Committee emphasises the importance of applying this knowledge across the APS and, in future, encourages these learnings to be disseminated more broadly and systematically.
- 5.69 To this end the Committee encourages all departments and agencies to ensure that a structured approach is taken to implement change and facilitate ongoing effective service delivery across the APS.

Robert Oakeshott MP
Chair
15 June 2011



Appendix A — Submissions and Exhibits

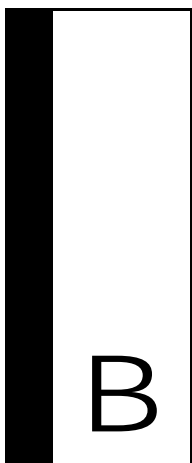
Submissions

- 1 Australian National Audit Office
- 1.1 Australian National Audit Office
(Supplementary to Submission No. 1)
- 1.2 Australian National Audit Office
(Supplementary to Submission No. 1)
- 2 The Department of Finance and Deregulation (Finance)
- 3 Australian National Audit Office
- 4 Australian National Audit Office
- 5 Australian National Audit Office
- 6 Department of Innovation Industry, Science and Research
- 7 Department of Veterans' Affairs
- 8 The Department of Finance and Deregulation (Finance)
- 9 Department of Families, Housing, Community Services and
Indigenous Affairs
- 10 Department of Families, Housing, Community Services and
Indigenous Affairs
- 11 Department of Regional Australia, Regional Development and
Local Government
- 12 Infrastructure Australia
- 13 Department of Regional Australia, Regional Development and
Local Government

Exhibits

- 1 Australian National Audit Office
Commonwealth Procurement Guidelines – Key Elements

- 2 Department of Regional Australia, Regional Development and
Local Government
Guidelines: Regional Development Australia Fund - March 2011
(Related to Submission No. 11)



Appendix B — Public hearing

Wednesday, 2 March 2011 - Canberra

Australian National Audit Office

Ms Tracey Martin, Senior Director

Mr Ian McPhee, Auditor General

Mr Stuart Turnbull, Executive Director

Department of Families, Housing, Community Services and Indigenous Affairs

Mr Steve Jennaway, Chief Finance Officer, Business and Financial Services

Department of Finance and Deregulation

Mr Stein Helgeby, Deputy Secretary, Financial Management Group

Department of Industry, Science and Research

Mrs Vanessa Graham, Head of Division, Corporate

Department of Veterans' Affairs

Mrs Carolyn Spiers, National Manager, Business Integrity and Legal Services

Department of Finance and Deregulation

Mr John Grant, First Assistant Secretary, Procurement

Monday, 21 March 2011 - Canberra

Australian National Audit Office

Mr Brian Boyd, Executive Director

Ms Alicia Hall, Senior Director

Mr Ian McPhee, Auditor General

Ms Nicola Rowe, Senior Director

Department of Regional Australia, Regional Development and Local Government

Mr Justin Hanney, Deputy Secretary

Mr Gordon McCormick, Acting First Assistant Secretary, Program
Delivery Division

Infrastructure Australia

Mr Michael Deegan, Infrastructure Coordinator

Wednesday, 23 March 2011 - Canberra

Australian National Audit Office

Ms Barbara Cass, Acting Group Executive Director

Mr Ian McPhee, Auditor General

Department of Climate Change and Energy Efficiency

Mr Martin Bowles, Deputy Secretary

Mr Nico Padovan, First Assistant Secretary

Department of Human Services - Medicare Australia

Ms Sheila Bird, General Manager, Business

Ms Malisa Golightly, Deputy Chief Executive Officer

Department of Sustainability, Environment, Water, Population and Communities

Ms Catherine Skippington, First Assistant Secretary, Business
Improvement Division

Mr Malcolm Thompson, Deputy Secretary, Business Improvement
Division